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ISSN 1180-4378

Legislative Assembly of Ontario

First Session, 36th Parliament

Assemblée législative de l'Ontario

Première session, 36^e législature

Official Report of Debates (Hansard)

Wednesday 15 November 1995

**Standing committee on
resources development**

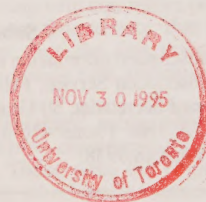
Organization

Journal des débats (Hansard)

Mercredi 15 novembre 1995

**Comité permanent du
développement des ressources**

Organisation



Chair: Steve Gilchrist
Clerk: Douglas Arnott

Président : Steve Gilchrist
Greffier : Douglas Arnott

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Published by the Legislative Assembly of Ontario



Service du Journal des débats, Édifice du Parlement,
Toronto, Ontario, M7A 1A2

Téléphone, 416-325-7400 ; télécopieur, 416-325-7430

Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
RESOURCES DEVELOPMENTCOMITÉ PERMANENT DU
DÉVELOPPEMENT DES RESSOURCES

Wednesday 15 November 1995

Mercredi 15 novembre 1995

The committee met at 1533 in committee room 1.

ELECTION OF CHAIR

Clerk of the Committee (Mr Douglas Arnott): Honourable members, it is my duty to call upon you to elect one of your membership as Chair of the resources development committee. Are there any nominations, please?

Mr John R. Baird (Nepean): I nominate Steve Gilchrist.

Clerk of the Committee: Are there any further nominations? There being no further nominations, I declare the nominations closed and Mr Gilchrist duly elected Chair of the committee.

ELECTION OF VICE-CHAIR

The Chair (Mr Steve Gilchrist): I'll take my name plate and go.

We'll move immediately to the election of a Vice-Chair. I call for nominations for Vice-Chair of the committee.

Mr Bob Wood (London South): I'd like to nominate Barb Fisher as the Vice-Chair of the committee.

The Chair: Thank you, Mr Wood. Are there any further nominations?

Ms Frances Lankin (Beaches-Woodbine): Can I second that?

Ms Marilyn Churley (Riverdale): And I'll third it.

The Chair: Thank you. Are there any further nominations? There being none, I declare nominations are closed and congratulate Barb Fisher on her election as Vice-Chair. Thank you. Good luck, Barb.

Now, has someone got a copy of this motion?

APPOINTMENT OF SUBCOMMITTEE

Mr Dwight Duncan (Windsor-Walkerville): I move that a subcommittee on committee business be appointed to meet from time to time at the call of the Chair or at the request of any member thereof to consider and report to the committee on the business of the committee; that the presence of all members of the subcommittee is necessary to constitute a meeting and that the subcommittee be composed of the following members: Mr Gilchrist as Chair, Mr Baird, Mr Duncan, and Mr Christopherson; and that any member may designate a substitute member on the subcommittee who is of the same recognized party.

The Chair: Anyone wish to speak to the motion?

All in favour of the motion as read? Contrary if any? Carried. Thank you, Mr Duncan.

BRIEFING

The Chair: I guess that's the end of the official agenda, but Mr Arnott has indicated that he'd like a few minutes to give us a bit of the history of the committee. Some of the members of the committee are blessed with that firsthand knowledge, but for the rest of us I'm sure it would be very illuminating.

Clerk of the Committee: If you can't hear me, I'll try to speak a little louder.

The standing committee on resources development, as you know, is one of four policy field committees. These policy field committees consider business either as it's referred from the House or as the committee itself may initiate it pursuant to either standing orders 108 or 125.

I'll just give you a brief overview of the provisions and of the past history of the committee in the 35th Parliament.

In terms of referrals from the House, there may be three categories of business referred: government bills, private members' public bills and special studies by order of the House, by special reference of the House, and all three matters pertained in the last Parliament.

The resources development committee considered nine government bills in the last Parliament: three in the first session, two in the second session and four in the third session. Among the bills considered were: An Act to amend certain Acts concerning Collective Bargaining; Workers' Compensation and Occupational Health and Safety Amendment Act; Power Corporation Act; An Act to establish the Ontario Training and Adjustment Board; the Farm Registration and Farm Organizations Funding Act; and the Ottawa-Carleton French-Language School Board Act. As you'll see, the last one there really doesn't seem to be of the same category of ministries that normally fall under resources development committee policy grouping. You may find this from time to time: that bills are referred for reasons other than the fact that they would normally fall under the policy field grouping that is assigned to a committee.

In the category of private members' public bills, this committee in the last Parliament considered two and reported them to the House. Those were the Highway Traffic Amendment Act dealing with bicycle helmets and a bill dealing with slow moving vehicle signs.

In terms of the one special reference to this committee, by special order of the House the committee undertook a study and reported to the House on graduated licensing.

In terms of initiatives by the committee itself, this committee, as is the case with the other three policy field

committees, is empowered "to study and report on all matters relating to the mandate, management, organization or operation of the ministries" or the offices that are assigned to this committee, and that assignment will take place in very short order. That is required to be done by the Legislative Assembly committee. So we will know soon which ministries or offices are assigned to each policy field committee, as well as the agencies, boards and commissions that relate to those, who report to those ministries and offices.

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So as long as the subject matter relates to a ministry assigned to the committee, then the details and duration of a study undertaken pursuant to standing order 108 are entirely at the committee's discretion. Standing order 108 is usually used when the committee as a whole agrees on what it wishes to study, and the result of a study under the standing order may be a substantive report containing recommendations.

In the last Parliament, this committee did use standing order 108. It presented a report to the House on its observations and recommendations with regard to the hearings it held on the private member's bill referred to it, dealing with bicycle helmets. When legislation is referred to a standing committee, the report of the committee normally is the legislation reported back to the House. There cannot be a report of commentary on the legislation normally. In this case, after going through the hearings on the subject of bicycle helmets and Bill 124, the private member's public bill, the committee decided it wanted to report its observations and make some recommendations to the House, and it was able to do that under standing order 108.

In terms of standing order 125, designated matters, the committee in the last Parliament did see more of those. Standing order 125 provides that in each calendar year each member of the subcommittee, except the Chair, can designate a matter other than a bill to be considered by the committee for a period of up to 12 hours. There are only two restrictions on this study: The matter must relate, again, to a ministry or office that's assigned to the committee; and the study cannot exceed 12 hours.

I'll be discussing standing order 125, designated matters, with the subcommittee when it meets, since it is the subcommittee whose prerogative it is to make a report on that issue and that report is deemed to be adopted; it's not a matter that the committee itself can debate and amend once the subcommittee reports on a standing order 25 issue. In any other case, a subcommittee report, under normal circumstances, would be debatable, amendable, once it's presented from subcommittee.

In the last Parliament, this committee considered five designated matters. It was either under standing order 125 or the predecessor, 123. It presented three reports on those. I have two of them here, and one of them seems to be out of print, on exotic species, purple loosestrife and zebra mussels. The other two dealt with service delivery at the Workers' Compensation Board and the state of emergency and the income crunch in Ontario agriculture.

In terms of attaching priority to the business that comes before committee, the standing orders clearly state that it's government business that takes first priority.

Standing order 125, designated matters, may follow that. But it is government bills that take first priority.

Seated to the left of the Chair is the committee's research officer assigned by the legislative research service, Ray McLellan. Ray may wish to add some comments with regard to the work provided by research officers to committees.

Mr Ray McLellan: I think you've probably covered off most of the topics. I'm new to this particular committee. I've spent a number of years on public accounts and finance and agencies, boards and commissions, so it's relatively new territory for me.

I think Doug has really covered off our two primary functions. Essentially, we work at the instruction of the committee in the preparation of these reports, dealing with both legislation and, as Doug has outlined, referrals from the House. After the hearings are completed, we're sent away on the instruction of the committee to draft these reports and to prepare recommendations and come back and the committee has an opportunity to review the report and to comment and to amend or to instruct us further to either modify or in any way change those reports. So we're operating, obviously, at the instruction of the Chair and the committee.

The Chair: Well, we have certainly a vast range of potential topics. I won't make a speech on this one but I'm looking forward. I think this has the potential to be a very interesting committee and I really do hope that we can conduct debate in here in a way that's productive and in the best interests of the people who put us here.

I would encourage all members, if they have an interest in a specific area that they think might be worthy for consideration under 125, to speak to the relevant subcommittee members. We will discuss that promptly. In addition, I guess we must be prepared to stand ready for whatever legislation that's sent our way. I take it the meetings then are at the call of the Chair.

Mr Christopherson, I see, is still tied up there, so I'll have to speak to him, but I wonder if perhaps we could arrive at a mutually convenient time for the subcommittee. After this meeting we'll stay around for a minute and see if we can get Mr Christopherson—oh, are you subbing?

Ms Lankin: But I can't speak to that issue because I am subbing.

The Chair: We'll work on a mutually convenient time, because it's my understanding that the subcommittee also deals with some of the procedural matters: how the Chair recognizes, either in rotation or first hand up, that sort of thing. So I'd like to get those out of the way so we're not taking up valuable committee time if a bill does get referred to it.

Ms Churley: Mr Chair, I can act as sub for the subcommittee person today.

The Chair: Okay, thank you, Ms Churley. Ms Lankin, did you have a question?

Ms Lankin: Yes, to Mr Arnott. I was just wondering, for those of us who've never been on committee before, myself included, if you would introduce the other members of the Legislative Assembly staff who are here and their roles.

Clerk of the Committee: To my right is the Hansard reporter or Hansard interjectionist. Then to the right again is the console operator from the Broadcast and Recording Service. Broadcast and recording, of course, then makes an audio tape of all committee proceedings. That is used by the Hansard transcribers to produce the verbatim transcript of every committee meeting.

The tapes alone would not always provide a sensible transcript, and that is why the tapes are supplemented by the Hansard reporter who will record interjections, record

the beginnings of sentences, the ends of sentences, search out unusual words, place names, proper names that may be used by members in debate in order to supplement the tapes.

Mr Baird: If there are no more questions from anyone, I'd move adjournment.

The Chair: All in favour? Carried. Thank you, all, and I look forward to seeing you as the pressures dictate.

The committee adjourned at 1549.



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STANDING COMMITTEE ON RESOURCES DEVELOPMENT

***Chair / Président:** Gilchrist, Steve (Scarborough East / -Est PC)

***Vice-Chair / Vice-Président:** Fisher, Barb (Ms) (Bruce PC)

*Baird, John R.(Nepean PC)

*Carroll, Jack (Chatham-Kent PC)

Christopherson, David (Hamilton Centre ND)

*Chudleigh, Ted (Halton North / -Nord PC)

*Churley, Marilyn (Ms) (Riverdale ND)

*Duncan, Dwight (Windsor-Walkerville L)

*Hoy, Pat (Essex-Kent L)

*Lalonde, Jean-Marc (Prescott and Russell / Prescott et Russell L)

*Maves, Bart (Niagara Falls PC)

Murdoch, Bill (Grey-Owen Sound PC)

Ouellette, Jerry J. (Oshawa PC)

Tascona, Joseph N. (Simcoe Centre PC)

**In attendance / présents*

Substitutions present / Membres remplaçants présents:

Fox, Gary (Prince Edward-Lennox-South Hastings / Prince Edward-Lennox-Hastings-Sud PC) for Mr Murdoch

Lankin, Frances (Ms) (Beaches-Woodbine ND) for Mr Christopherson

Wood, Bob (London South / -Sud PC) for Mr Tascona

Clerk / Greffier: Arnott, Douglas

Staff / Personnel: McLellan, Ray, research officer, Legislative Research Service

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ISSN 1180-4378

Legislative Assembly of Ontario

First Session, 36th Parliament

Assemblée législative de l'Ontario

Première session, 36^e législature

Official Report of Debates (Hansard)

Monday 27 November 1995

Journal des débats (Hansard)

Lundi 27 novembre 1995

**Standing committee on
resources development**

**Comité permanent du
développement des ressources**

Workers' Compensation and
Occupational Health and Safety
Amendment Act, 1995

Loi de 1995 modifiant la Loi
sur les accidents du travail
et la Loi sur la santé
et la sécurité au travail

Chair: Steve Gilchrist
Clerk: Douglas Arnott

Président : Steve Gilchrist
Greffier : Douglas Arnott

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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
RESOURCES DEVELOPMENTCOMITÉ PERMANENT DU
DÉVELOPPEMENT DES RESSOURCES

Monday 27 November 1995

Lundi 27 novembre 1995

*The committee met at 1529 in committee room 1.*WORKERS' COMPENSATION
AND OCCUPATIONAL HEALTH AND SAFETY
AMENDMENT ACT, 1995LOI DE 1995 MODIFIANT LA LOI
SUR LES ACCIDENTS DU TRAVAIL
ET LA LOI SUR LA SANTÉ
ET LA SÉCURITÉ AU TRAVAIL

Consideration of Bill 15, An Act to amend the Workers' Compensation Act and the Occupational Health and Safety Act / Projet de loi 15, Loi modifiant la Loi sur les accidents du travail et la Loi sur la santé et la sécurité au travail.

The Chair (Mr Steve Gilchrist): It being 3:30, the standing committee on resources development is called to order. Today we're beginning our hearings on Bill 15, An Act to amend the Workers' Compensation Act and the Occupational Health and Safety Act.

MINISTRY OF LABOUR

The Chair: My name is Steve Gilchrist. I'm the Chairman. It's my pleasure to greet our guests today and the members of the committee. We will commence with a brief opening statement by the parliamentary assistant to the Minister of Labour, with responses from the opposition critics.

Following the opening statements, we'll hear from our first presenters. Each presentation has been scheduled for 15 minutes exactly, which the witnesses may use as they wish. Any part of that time they choose to leave for members' questions will be up to them.

I propose to divide the question time available, if any, equally among the three parties and to rotate recognizing questioners, starting with the official opposition on the first round. If there's no other business, I'll now recognize the parliamentary assistant for up to 10 minutes.

Mr John R. Baird (Nepean): The minister has asked me to appear on her behalf today. Unfortunately, she's sick at home with the flu and wanted me to apologize for not having the opportunity to meet with the committee to make an opening statement. So I'm pleased, on her behalf, to appear before you to introduce Bill 15.

As I present the bill for public hearings to the committee today, I do so mindful that the window of opportunity for turning around the Workers' Compensation Board is rapidly closing.

That Ontario's workers' compensation system has serious problems is beyond dispute, even among members in this room. The board has by far the highest unfunded liability in the country. It has a staggering \$11.4-billion

unfunded liability. On top of that, it has the second-highest assessment rates in the country. High assessment rates and a huge unfunded liability are problem enough. They are a drain on the economy and a deterrent to future investment and job creation in the province of Ontario.

What makes the situation even more desperate is that the board long ago stopped meeting the needs of its principal clients: the employers and workers of the province of Ontario. Management and governance is ineffective, and there is no sense that the board is accountable to either its stakeholders or to government. Our government is determined to turn around the deteriorating situation. We're doing so quickly, but we are also doing so thoughtfully.

Bill 15 begins this essential process of reform. It overhauls the governance, management and accountability of the board and also provides the tools a revamped WCB needs to ensure compliance with the legislation.

With these reforms, the stage is set for the second set of reforms based on the recommendations of my caucus colleague, the minister without portfolio responsible for WCB reform, Cam Jackson. He is conducting a study into what injuries are compensated, how they are compensated and at what level. His recommendations will fix the financial problems with the system and retire the unfunded liability by the year 2014.

Mr Jackson is examining the adjudication system, the service delivery system, as well as how the government will meet its commitment to reduce employer assessment rates. He will report to cabinet next spring.

More immediately, though, Bill 15 is why we're here today. Specifically, Bill 15 establishes a new multi-stakeholder governance structure, introduces a new accountability framework, introduces measures to ensure that the board operates according to sound financial practices, and adds provisions which strengthen the board's ability to aggressively attack the problem of both worker and employer fraud.

In addition to these measures, there are amendments that reflect the changes the government has made to the Workplace Health and Safety Agency and amendments to the purpose clause of the WCB to reflect the shared objective of improved workplace health and safety.

Bill 15 establishes a new, more representative multi-stakeholder board of directors. Our intention is to broaden representation on the board beyond simply employers and labour. This amendment is necessary because bipartite governance structures have proven in the province of Ontario to be both ineffective and, in the end, unsuccessful.

ful in the government's view. It recognizes that other stakeholders also have legitimate interests in the well-being of the system, and their expertise will contribute to a well-governed Workers' Compensation Board.

We've also strengthened the purpose clause to ensure that all WCB activities are carried out in a financially accountable manner. While a financial accountability provision does already exist in the purpose clause, it applies only to the board of directors. It does not go far enough in ensuring that the whole compensation system makes financial sustainability a priority, let alone a top priority.

We are amending the legislation to require the board to prepare a five-year strategic plan, a statement of priorities for administering the act and regulations and a statement of the board's investment policies and goals.

Bill 15 also gives the minister permanent authority to issue policy directions to the board of directors. These and other related amendments recognize that while the WCB remains an independent, self-funded agency, the government retains an overriding public interest in its successful operation.

The bill imposes a requirement on the WCB to conduct annual value-for-money audits. These are tools used by organizations to ensure that efficiency, economy and effectiveness are achieved in the delivery of programs. These audits will be undertaken by an external auditor.

The bill introduces a new offences and penalties section. It clarifies the board's authority to prosecute and impose sanctions for illegal acts. New obligations are created for employers and workers to provide the WCB with material information. These new provisions place positive obligations on workers and employers to report to the board when there are changes in circumstances that, in the case of workers, affect their rights to benefits or, in the case of employers, affect their obligations under the act.

This legislation is all about proper administration and giving the board the tools it needs to go after all forms of fraud. It recognizes that fraud and abuse of the workers' compensation system is a problem for both workers and employers, as well as for taxpayers in the province of Ontario. Thus, it will become an explicit requirement for employers who must register with the WCB to do so within 10 days of beginning operations. Failure to register will be made an offence under the act, subject to penalties.

The act establishes for the first time fines of up to \$25,000 for individuals who are convicted of an offence under the act. Maximum fines for corporations are increased to \$100,000. Directors and officers can now be convicted of wrongdoing.

Other measures give the board authority to order restitution; in other words, the board will now be able to collect moneys owing to it, a power it did not previously have. In addition to these provisions, further amendments are proposed for the purpose clause to make occupational health and safety a priority objective of the WCB. I believe that this change is long overdue.

We are also amending the Occupational Health and Safety Act to reflect the changes previously made to the

governance structure of the Workplace Health and Safety Agency. This includes the revocation of order-in-council appointments of the board of directors and the appointment of an executive director to administer the agency.

In conclusion, I'm very pleased to present this bill to the committee for your review. As I mentioned to you at the outset, the objectives of these reforms are to establish an effective multipartite governance structure; provide stronger, more effective management at the WCB; establish a new accountability framework; provide the WCB with the tools that will allow it to administer and enforce the act, and set the stage for the systematic reforms that will be introduced following Minister Cam Jackson's study.

As I review our government's objectives for this first stage of reforms, I am confident this strategy is right. I am confident we have reflected and implemented the strategy correctly in the drafting of this bill. Having said that, I recognize that the committee has a very important task in front of it. No doubt it will be hearing from many interested groups who will have comments and suggestions to make. I know too that members themselves will have valuable input of their own. So on behalf of Minister Witmer and the government, I want to say that I'm looking forward to the committee's deliberations and am committed to working with you to achieve the best possible results for the people of the province of Ontario.

The Chair: Mr Duncan will be responding on behalf of the official opposition, 10 minutes.

Mr Dwight Duncan (Windsor-Walkerville): I want to begin by saying that it's good to be having hearings on a bill of this import, a bill affecting injured workers and employers across the province. We weren't given that opportunity with Bill 7, so this is indeed a pleasure.

I want to take a few minutes to discuss some of the aspects of the bill that we see as problematic, because I think we probably all agree that there is a financial problem, a crisis at the board that needs to be addressed in a substantive manner. To that extent, we are a bit disappointed that the government has brought forward a bill that really doesn't deal with the substantive issues. We had anticipated that we would be dealing with WCB reform in its entirety. Indeed, based on the government's own commitments prior to the election and during the election, we assumed that the reform the government envisioned would be out sooner than it's going to be.

We want to begin by saying that this is only a very small component of reform that needs to be undertaken, and we're disappointed that we can't be dealing with the entire package all at once.

1540

With respect to the substance of the bill, I want to begin by talking about the bipartite versus the multi-stakeholder model. As members of the committee are aware, our party supports the multistakeholder model. We did so in the pre-election period, we did so during the election and we continue to believe that the multi-stakeholder approach is the proper approach.

Where we part company with the government in terms of Bill 15 is in the lack of definition of "multistake-

holder," the three to seven members of the board, without giving any kind of specifics with respect to whether that will be one labour representative and six management representatives. We'll be bringing forward some amendments to give precision to that, that would see us in effect say we have to have equal representation. We'll also bring forward amendments with respect to specificity around the question of who the other stakeholders are.

Again, as you know, we did that in our Back to the Future document, which formed the basis of our party's position on workers' compensation reform. We'll be talking about those issues in greater length in committee here and we'll, as I say, be bringing forward amendments.

The value-for-money audits are an interesting concept that's been used in other jurisdictions and by other levels of government to some effect and with some success. I don't think that we ought to assume somehow that these value-for-money audits are going to fix the problem. I'll give you a for instance. Members of the committee will be aware that with respect to the WCB's accident fund, it has an outside audit done every year now. It's done this year, I believe, by Towers Perrin. The portfolio is analysed with respect to its investment objectives as well as with respect to rates of return relative to other funds of a similar nature. So value-for-money audits are useful in some instances, are indeed being used by the board now in parts of its operation.

What we don't want to see happen, however, is if these value-for-money audits become a tool by which we justify cuts to injured workers in the future. Value-for-money audits ought to be directed very specifically with respect to what their target is; if it's vocational rehabilitation and the proper management, are we getting the best bang for our buck, certainly. But we want to talk a bit about the implementation of those.

Finally, we will bring forward amendments to the bill on this particular issue that will give the Legislature the power to determine where value-for-money audits happen, not the minister, and certainly not by this government. One can envision a situation in the future where part of the board could be embroiled in controversy, and business people and injured workers at our doors pounding them down and the minister, because he or she doesn't want to fan the flames, will have the value-for-money audit done on some other aspect of the board. So we'll bring forward amendments to that effect.

I want to just take a couple of moments to address the question of the closure of the Workplace Health and Safety Agency, because the bill contains amendments that give effect to this. My friends opposite have gleefully held up the red book, as I said, that we no longer supported the inclusion of the Workplace Health and Safety Agency in the board.

We did so with two very clear reasons: One is Dr Tuohy's report, which is in the possession of the minister, was in the possession of the previous minister, that very clearly and unequivocally recommended against that. Dr Tuohy, who I suppose it could be said was viewed as a management-side person, advocated that the agency ought to have the opportunity to address her concerns prior to collapsing it or folding it into the board. Her concerns—she had, as I recall, about 24 recommendations with

respect to the administration and management of the agency.

Finally, we had a letter from the auditor of the agency—I forget, one of those big accounting firms with a long name—signed by the senior partner, saying that in effect the agency is well run and ought not to be part of the WCB. It may have been Mr Farlinger's firm, if I'm not mistaken. I stand to be corrected on that. In any event, it was a senior partner, and they made that point.

Then, finally there was my own experience. As a health care administrator I had employees and managers in our operation partake in the programs last spring and was astounded simply by the quality of the programs and the effect they had on our workplace, both for management and worker. Therefore, based on that, I persuaded our caucus to change its position.

The last issue I wanted to address today was the whole section around offences and penalties. The government has made a very clear case and has advocated for a long time the need to get government red tape dropped back. As I read the sections dealing with offences and penalties and filings, I sense that the management community, if it hasn't already realized it, had better give some thought to what those people down at that big building will do with this in terms of operationalizing the clauses of the act and what that means for red tape. I think, just reading the bill, that the red tape that will be needed to give effect to this will probably cause a lot of businesses to shudder. So we will, again, be bringing forward amendments in that area.

Finally, with respect to the whole question of offences and penalties, it's not exclusively the wording of the act that will determine whether or not we're good at enforcing our act. It comes down to the issue of enforcement. It comes down to the resources you apply to prevent fraud, at what point there's a cost-benefit to additional resources. So we'll be looking at those parts of the bill closely as well, because our fear is that while the bill says a lot of good things about preventing fraud and abuse, our fear is that what it does is to create a paper burden for employers as well as workers and at the same time will not, in our view, realistically reform or improve the prevention of fraud and abuse.

With those few words I will relinquish the seat.

The Chair: Mr Christopherson, will you be speaking on behalf of the third party? Yes? Then you have 10 minutes, please.

Mr David Christopherson (Hamilton Centre): First of all I would like to make it very clear that in the opinion of the New Democrats this is, by and large, to do two key things. The first is to deny workers the equal share in the decision-making that they now enjoy under existing WCB legislation, and the second is, this is the tee-up for the slashing that Minister Jackson will be bringing forward in the spring.

The changes to the makeup of the board of directors will allow the government to load up that board with a clear majority of people who view the WCB and workers' minority place in that vision, into place, where they can implement the kinds of destructive policies that this government is hell-bent to put in place.

With regard to the Workplace Health and Safety Agency, which my colleague from the Liberal Party has commented on, I am pleased that he continues to remind the public, and I'll join with him in doing that, that the Liberals are also keen on changing the makeup of the WCB to ensure that workers are put in their rightful place as Tories and Liberals see it; and the rightful place for workers, according to Liberals and Tories, is to clearly be in a minority position, if one is forced to go that far, "but by God, this business of workers having a 50% say in matters that affect their lives has to go." You not only have changed the makeup of the board with Bill 15 in the WCB, but annihilated the entire agency when you took office and announced what you were going to do with workplace health and safety.

Of course, it needs to be said that none of these things can be taken in isolation. One has to look at the entire picture when you're dealing with the Tory agenda. The whole picture, when you fold in what will happen on Wednesday with regard to the Ministry of Labour, and then start to put all the pieces together, clearly it's the intent of this government to put workers back in their place, as they see it, that silly, warped vision of how the world ought to be in the late 1990s as compared to the 1950s, which very much seems to be where this government is going. What's interesting is, of course, they've always accused us of being social engineers, yet that's exactly what this government is doing in a way that's unprecedented in the history of Ontario.

1550

Clearly, in our opinion, there are other aspects to Bill 15, and I will comment on them, but it is our view that most of those things are meant to provide cover and distraction from the main intent, which is to take away the 50% decision-making power that workers now enjoy under existing WCB legislation, move them into a minority position, load up the board with like-minded Tory types and jam through your anti-worker agenda as it relates to the WCB. I'm convinced that as time unfolds, over the years, actually—it's going to take a couple of years—these comments will be seen to be an accurate reflection of what is really happening here and what's happening to working people.

I will comment on the funding, again, the funding ratios and the unfunded liability. We know that this government has decided that it needs to create a crisis in every area that it wants to make changes, to provide a justification for the kind of ruthless attack on benefits to ordinary Ontarians that it's conducting. In the case of the Ministry of Education and Training, of course, there is even the minister on tape, on the record, stating that they need to manufacture a crisis. That, in our opinion, is consistent with the way the government is operating in every area.

We also know that this is being done in large part because \$5 billion of the cuts they're making is to make room for a tax cut that the wealthy will benefit from the most. As long as they can keep everybody thinking there's a crisis out there, then they can move under that cover, and we intend to do everything we can to make sure that's exposed for what it really is.

This is no different. The government talks of the crisis that exists, when the reality and the fact is that there was a plan brought forward by experts within the WCB administration, at the behest of the board, that would see the unfunded liability eliminated by 2014. That plan was endorsed by all of the worker representatives on the board. I think that shows there is an ability, if you're willing to work with workers' representatives in this province, to deal with real problems that exist in a real, meaningful way.

But this government's not interested in that. That's not what this is all about. This is all about going after those benefits, and in this case it's so blatant. It's a 5% cut that will be coming in the spring, and I still say it's attached to Bill 15, because this puts in place the decision-making structure the Tories need to fulfil this. In the spring, Minister Jackson will bring forward recommendations that he says will show a 5% cut to workers on disability, and at the same time bring in a tax refund, because it is no different, an assessment cut for employers.

Again, as we've seen time after time after time, it's a question of taking away rights that workers have legitimately gained and worked for over the years to pay for a political commitment that you made in the Common Sense Revolution to the very wealthy in our province. You're bound and determined to give that money to those who have the most already at the expense of disabled workers, and as we've seen in other cases, through government action, through the poor, children, abused women, all those who are most vulnerable in our society. That's probably what we in our party find so despicable, the blatant attack on benefits to ordinary Ontarians, not to deal with the deficit but to give an even greater benefit from the wealth of our province to those that are already fortunate enough to have the most.

Specifically on the unfunded liability, in 1985, which was the last time the Tories were in power, the ratio was 31.8%. As of December 31, 1994, it was at 37.4%. That's not a huge change, but it's a trend in the right direction, and that's the kind of approach we've always advocated: Attack these problems in a way that maintains the values that we have as Ontarians and at the end of the day resolves the problem, as would have happened with the unfunded liability in terms of eliminating it by 2014.

And speaking to the unfunded liability, again, the trend lines are there. In 1993, the unfunded liability was \$11.4 billion; in 1994, it was down to \$11.5 billion. Again, not dramatic, but a trend line in the right direction that allows us to meet those fiscal obligations, but not making victims of people who are already innocent victims.

With regard to the fraud, again, the government's very good at finding hot buttons. I give them their due. They're excellent at it, and your ability to capitalize on that is quite extraordinary. But again, if you can talk about fraud in a way that suggests that's the big problem, as you've done with welfare, if you can find one or two cases that you can use as an example and play to the perception in the public that there's this widespread fraud and that's why we have a debt and deficit problem and that's why we have fiscal pressures on us, then you're away to the races, because nobody looks beyond that.

You've done that with welfare and virtually attacked everybody when we know that it's about 3%; every independent study has shown it's about 3%. You're doing it again with WCB in the way that you've put this bill together, suggesting that there's massive fraud out there and that's what is causing the problem. And the reality is that you're not doing anything extraordinarily new with regard to fraud. In fact, the fraud department within the WCB just recently won an independent award for the way they conduct their business.

So in wrapping up our opening comments, it will be our position to consistently show, through the evidence of people making presentations, that this is not to address and correct the WCB; this is to go after workers, among the most vulnerable people in our society, so that the government can again benefit their political backers, which are the very, very wealthy in our society. It's an absolute disgrace, and we will do everything we can to expose it for that.

The Chair: Thank you, Mr Christopherson, and I thank the three presenters for staying within their time.

CANADIAN MANUFACTURERS' ASSOCIATION

The Chair: We'll now hear from our first presenters, the Canadian Manufacturers' Association. Would the representatives please come forward. We all have copies of your submission. How you use the 15 minutes to make your submission is up to you; I'll remind of that. Any time you want to allow for questions has to be taken out of the 15 minutes. Welcome to the committee. Please introduce yourself to the members of the committee and for the benefit of Hansard.

Mr Paul Nykanen: My name is Paul Nykanen, and I'm vice-president of the Ontario division for the Canadian Manufacturers' Association. With me is Ian Howcroft, the director of human resources policy.

On behalf of the Canadian Manufacturers' Association, I would like to extend our appreciation for the opportunity to present our views to the standing committee on resources development on Bill 15, An Act to amend the Workers' Compensation Act and the Occupational Health and Safety Act.

What I'd like to say from the outset is that we at the CMA fully support the direction of the government with regard to workers' compensation reform. It is a good first step. We recognize that this is a first step, and we want to assure the committee that we will be very involved in the reform initiative as it proceeds. We're looking forward to providing input and further comment to Minister Jackson as he conducts the broader review that will examine the entire system in order to make the necessary long-term changes.

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Before we provide some substantive comments on Bill 15, I'd like to state a few facts about the CMA. First of all, it's a voluntary association with members from all regions of the province. This year we celebrated our 124th anniversary representing manufacturers. Our membership base contains small, medium and large companies from all aspects of manufacturing, and our membership produces approximately 75% of the total

manufacturing output of Ontario. That represents about \$121 billion on an annual basis. There are about one million individuals in Ontario who are directly employed in manufacturing and another 800,000 who are employed in directly providing services to the manufacturing sector. These statistics clearly state that manufacturing is certainly the engine of growth, and particularly in Ontario.

Secondly, we've had a very long involvement with the issue of workers' compensation. As a matter of fact, our submissions date right back to 1912, when we made our first submissions to Justice Meredith. His work became the seminal work which is the basis of the whole framework for the system as it stands today. We've continued our active involvement in this thing and I believe are recognized today as one of the leading associations dealing with the issue.

There's one very good reason for this issue, and that is that the significance of it to our manufacturers is very great because almost half of the total assessment rates for the system are borne by the manufacturing sector, so it is a very big issue for us. We want to ensure a strong and sustainable workers' compensation system. To achieve this, we feel that major reforms are necessary, that we must return to the insurance principles and that we must recognize that workers' compensation must be related to work-related injuries. It has gone far beyond the original intent or scope and we thus have the severe problems that we have today. If such reforms are not implemented, the system on which injured workers rely could be undermined and unable to guarantee the benefits on a continuing basis.

I'd like to comment on a few issues with regard to Bill 15, starting out with governance. We're very pleased that the current bipartite governance structure at the WCB is being replaced with one that will be more efficient, more productive and more able to directly affect the Workers' Compensation Board. The bipartite system has proven to be counterproductive, confrontational, divisive and unable to deal with the essential issues. This is true not only for the Workers' Compensation Board but also at the Workplace Health and Safety Agency. The agency "experiment" in institutional bipartism was a failure.

Given this afternoon's time constraints, we're providing members of this committee with our submissions on the Workplace Health and Safety Review Team, as it provides in more detail our views on health and safety regulatory reform.

We therefore support the introduction of a multi-stakeholder board comprised of individuals with the requisite skills to effectively guide and govern the Workers' Compensation Board. It is essential that well-qualified experts be appointed to deal with and to solve the board's financial crisis.

Given what we have just said, it should come as no surprise that we support the amendments pertaining to the governance structure at the agency. We also look forward to providing ongoing input as the health and safety regulatory system is reformed.

Financial accountability: With an unfunded liability of approximately \$11.4 billion, it is hard to understand why stronger financial accountability requirements were not

introduced years ago. The current financial accountability framework, which is set out in the purpose clause, falls markedly short of what is necessary. Consequently, CMA is pleased that Bill 15 will address the current inadequacies. The workers' compensation system must be based on sound financial principles which include fully funding the cost of new workers' compensation claims; improving the ratio of assets to liabilities; providing a positive cash flow; eliminating the unfunded liability through a range of strategies; and maintaining a competitive workers' compensation system in its entirety.

An entrenched financial accountability structure would ensure that sound financial principles are observed, implemented and followed to keep the system operating efficiently, equitably and in a fiscally prudent manner. It would prevent a future financial crisis from ever occurring again.

However, the CMA wants to confirm its view that the Workers' Compensation Board itself should remain at arm's length. It must not be subject to government interference or involvement on a day-to-day basis.

I will now call on Ian Howcroft to comment on some of the other substantive issues.

Mr Ian Howcroft: Good afternoon. The CMA feels that the best way to ensure the Workers' Compensation Board operates in a fiscally prudent manner and adheres to the requirements of the entrenched financial accountability structure is to conduct regular value-for-money audits. With the enormity of the financial problems at the Workers' Compensation Board, we agree with the provisions in Bill 15 for mandatory annual audits. We have long argued for such audits and we have always advocated that they be conducted by outside independent auditors. In addition to ensuring that the Workers' Compensation Board is operating properly, the audits would identify problems immediately and allow for the necessary corrective action. This would prevent small problems from growing to become a crisis.

With regard to fraud and revenue loss, we'd like to say that fraud of any kind cannot be tolerated within the workers' compensation system. In addition, it must be incumbent on the Workers' Compensation Board to take any and all reasonable action to recover moneys paid out because of fraudulent misrepresentation or because of an overpayment for whatever reason. CMA believes that the government's direction in this regard is a positive step. However, we would like to see even stronger provisions to address this serious problem that is estimated to be approximately \$150 million a year.

We had argued that extreme cases of fraud should be pursued through the criminal process and other lesser cases of fraud or the intentional provision of misleading statements or false statements be pursued through a system similar to that found in the unemployment insurance system. For example, with regard to unemployment insurance, if a claimant makes a false or misleading statement knowingly or with intent, that individual can be penalized up to 300% of their benefits.

With decreasing resources and the current financial crisis, it is essential that all moneys paid out go to the legitimate recipient in the correct amount. Bill 15 allows for more offences under the Workers' Compensation Act,

which is a positive step and one we support, but we would like to see an even more expeditious way to deal with this problem. It may therefore be worthwhile to further explore this type of approach.

To conclude, we support Bill 15 as a first step in the long-needed reform of our workers' compensation system. As Paul stated at the beginning of our remarks, we are pleased that the government has appointed Minister Jackson to conduct a comprehensive review of the entire system, as many other changes are necessary if the system is to become financially sustainable. We'll be providing comments to Minister Jackson as his initiative continues and we'd like to outline some of the areas that we feel must be addressed.

First is reducing the benefit rate to 85% of net from the current level of 90% of net. In fact, we've even argued for a tiered or staggered rate whereby the first 39 weeks would be at 80% of net and then they would go to 85% thereafter.

There's also great need for a new definition of what is a compensable injury. The current level of entitlement has been expanded far beyond that which was originally intended or what should have been allowed. For example, we'd also like to see stress specifically excluded in the definition.

The workers' compensation system should provide for a waiting period similar to what has been required in other jurisdictions with great success.

It is also essential that employers be charged appropriate premiums. The government has recognized that the current assessment levels are too high and it has stated that they will be reduced by 5%. Again, we're pleased with this direction but we want to raise the fact that manufacturing, as a sector, has been paying more than its fair share for many years. We'd like to see this inequity addressed.

1610

There's a need to improve and strengthen the current experience rating system to more appropriately and adequately deal with and reward individual employers. We will be providing further comments to Minister Jackson as his initiative continues, and the result, we hope, will be an equitable and financially sustainable system. It's essential that injured workers receive fair, adequate and guaranteed benefits from a well-run and competitive Workers' Compensation Board.

Those are our formal submissions and we'd be pleased to answer any questions.

The Chair: Thank you very much. I must apologize to both you and future groups. In our efforts to make sure we had as many presentations as possible, we've of needs limited each presentation to 15 minutes. So I guess we have time for probably one question. Mr Duncan.

Mr Duncan: I wanted to ask you a couple of questions. The issue of governance and the multistakeholder model, the way the legislation is framed, it leaves open the question of what the balance and what the makeup of the board should be. Would you support an amendment that gave effect to saying that the management and labour reps should be equal on the board, recognizing that there's room for other stakeholders?

Mr Nykanen: If we take the experience of the Workplace Health and Safety Agency, where you had equal representation on both sides—

Mr Duncan: No, I'm not advocating bipartism. Let's just, by way of example, say that we have a seven-person board and we then say that there will be management and labour representation, which the bill says, would you support a clause that said that labour and management representation—let's say it totals four—should be two each, with the balance being other stakeholders? Would you support that kind of amendment?

Mr Nykanen: We haven't specifically attached numbers as to what the representation might look like. The whole principle would be that if the directors are selected on the basis of their skills and what they are to bring to the board—in other words, if the objective is to provide on-going, continuing benefits to injured workers and to have the system on a financially sound basis—then it's more the qualifications of the individuals towards that objective. I would say that from both the employer side and the worker side this is the principle objective of the thing. The board, as it's constituted, if it carries out that mission, then we feel it would have accomplished something.

The Chair: Only a very, very brief supplementary.

Mr Duncan: Would you agree that there are worker representatives who have something to contribute in a positive way to the board?

Mr Nykanen: Unquestionably.

Mr Duncan: If we're going to a multistakeholder model where we say in the statute that there ought be labour and management representatives, and it says that, would you not agree that the statute ought to say there should be equal management and labour representation, recognizing the multistakeholder model?

Mr Nykanen: It's quite possible that's the way it would end up being. Certainly there's no denying that the workers are a key stakeholder in this thing, after all, and it is a workplace issue that we're dealing with.

Mr Duncan: If I were to bring forward that amendment to say there would be an equal number of labour and management representatives, would you support that?

Mr Nykanen: On the basis that the qualifications were as defined.

Mr Howcroft: I think merit and the requisite expertise of the individuals have to dictate who gets appointed to the board.

Mr Duncan: That's—

The Chair: Mr Duncan, if I could, Mr Christopherson wanted to get one in.

If I could ask that your question be relatively short, Mr Christopherson.

Mr Christopherson: You aren't going to penalize me because he was long, I'm sure.

The Chair: No.

Interjection.

Mr Christopherson: Don't you, though. I'd like to follow up on that but it'll be another time.

You mentioned in your presentation that you'd like to see the government remain at arm's length from the operations of the WCB—I'm paraphrasing—and you're supporting Bill 15. You'll know that Bill 15 also gives the minister and cabinet much greater power to dictate policy to the board, and the board has to accept them. Do you support that concept as it is outlined in Bill 15? If you do, I just wonder how it squares with what you've said in your presentation.

Mr Howcroft: We support the concept of what you've paraphrased. What we don't want to see is the government getting involved on individual claims or the day-to-day management of the Workers' Compensation Board. We feel that the government has a great deal of accountability for the whole system and we do support more of a role to ensure that the board does operate in a more fiscally and financially prudent manner. So we do support the gist of what is in Bill 15. We put the caveat in there because we don't want to see the House dealing with individual claims on a regular basis. We know that can be a result. We still think the Workers' Compensation Board, with the appropriate individuals in place, should be running the system and that the day-to-day operations should not be part of the function of government.

Mr Christopherson: If I can follow up on that just very briefly, I'm a little confused. If the government is now giving itself more power than it's ever had before and it can virtually dictate what the board will or won't do and whether it's related to a direct case—you can easily fudge that issue—the minister will have absolute right to dictate what the policy will be. I find that interesting, given that you don't believe they should be getting as involved as it seems to me they are in Bill 15.

I would ask how you square that, again, with the comment about the valuable contribution that workers have to make and the fact that it affects their lives and their income and your not agreeing that they should have a 50% say in the decision-making. I have trouble understanding exactly where you are, particularly as it relates to Bill 15 and what's in here.

Mr Howcroft: I guess our position is that we feel that workers and employers should be selected to sit on the board because of the skills they bring, not because of the merit that they necessarily represent. It should be on the merit principle in who gets the job and who brings the requisite expertise to that board.

With regard to the control of the board, we would like to see the government have more of a role to prevent the crisis from continuing and to deal with the problems that exist today. What we don't want to see is the minister getting involved in individual cases or the government being involved or embroiled in the day-to-day operations of the Workers' Compensation Board.

Mr Christopherson: So all the prior members weren't qualified?

Mr Howcroft: We didn't say that.

The Chair: Again, my apologies that we have to put the time limitation on, but thank you both, Mr Nykanen and Mr Howcroft, for your presentation. We appreciate your leaving this information for us.

UNITED FOOD AND COMMERCIAL WORKERS
INTERNATIONAL UNION, LOCAL 1000A

The Chair: We'll now hear from our second group of presenters, the United Food and Commercial Workers Union, Local 1000A. Good afternoon. As we just saw in the last presentation, perhaps if you want time for questions you might consider allowing, say, five minutes or six minutes for that. Welcome to the committee. Please introduce yourself.

Ms Pearl MacKay: I'm Pearl MacKay with the United Food and Commercial Workers, Local 1000A. With me today as well is Herb MacDonald from UFCW, Locals 175 and 633.

The United Food and Commercial Workers, Local 1000A, is UFCW's second-largest local in Ontario and represents just over 14,000 members who work predominantly in the food retail and food processing industries throughout Ontario. Some of the employers we have collective agreements with include Kretschmar, Brandt G Meat Packers, Cambridge Canadian Foods, Loblaw Supermarkets Ltd, franchised No Frills, SuperCentres and many others.

Many of our members suffer from workplace injuries such as carpal tunnel syndrome, bursitis, frozen shoulder, trigger finger, low back strains and herniated discs. These injuries are often caused by the repetitive type of work and often permanent damage has occurred to their bodies by the time they are diagnosed and a WCB claim has been filed.

Throughout our representation of our members before the Workers' Compensation Board, we have had a firsthand opportunity to experience the problems in the workers' compensation system on a daily basis as we service our members who have been injured on the job. We believe the bipartite board of directors at the WCB could assist in making a profound difference in improving the system for its stakeholders and looked to the royal commission on WCB to investigate longer-term issues as it relates to workers' compensation in Ontario, including an investigation into a public universal disability system.

I had the privilege of being one of the members of the bipartite board of directors of the WCB for the last six-month period, up until November 1 of this year. All of the directors on that board, I believe, brought with them a true commitment to improve the WCB system in this province. Part of that improvement included ensuring financial accountability in the system through ensuring that the two stakeholders in the system, workers and employers, had input into the appropriate funding in the system.

1620

The unfunded liability is not a new problem. It began in the late 1970s when the government and multistakeholder board of directors kept assessment rates artificially low. In fact, in 1985 the WCB had on hand only 31.8% of money it owes to injured workers. Today, however, it is more than 37% of that money. So there has been a small turnaround at the board in the last few years.

This turnaround has occurred in most-recent years, when workers of this province had a vice-chair at the

WCB, as did the employers. Most recently, through Bill 165 amendments, a true bipartite board of directors was enshrined in the Workers' Compensation Act.

This government would have the people of this province believe that the bipartite structure, representative of the two stakeholders in this system, did not and does not work. The Minister of Labour would have the people of this province believe that a bipartite structure is one of an adversarial nature rather than one of consensus.

Well, I am here to tell this government and to tell this committee that that is simply not true. The bipartite board of directors gave workers an equal say in how the board was run. In fact, the bipartite board made some incredible progress by bringing new claims' costs down dramatically, reducing the board's overhead and returning more injured workers with disabilities to the workplace than ever before. It enjoyed its first operating surplus in 10 years and reduced the unfunded liability for the first time in its history. The worker members of the WCB board of directors endorsed the administration's financial improvements package, called FIP, which would have paid off the unfunded liability by the year 2014.

However, the worker directors supported this package in a complete package because we didn't agree with a lot of the things that were in FIP, and the employer community didn't agree with a lot. But when we looked at the whole thing, there was the give and take on both parts, so we felt that it was the fairest solution to reach in terms of eliminating the unfunded liability. It would have saved the board over \$400 million in cash flow annually.

The FIP would not just result in paper saving, like reducing the unfunded liability, but real cash. Had the FIP been passed, it is our opinion that Cam Jackson, Minister without Portfolio for workers' compensation reform, could sit back and rest assured that there would be no incentive for him to look at imposing a three-day unpaid waiting period on injured workers' claims on benefits; there would be no incentive for him to reduce the benefits paid to injured workers by 5%.

Mr Jackson could also rest assured that he would have no incentive to review lifetime pensions awarded before 1990, which could possibly include their elimination, and put at ease these most vulnerable of workers, more reliant on our social safety nets than ever before—if in fact by the time this government is through with its agenda there are any social safety nets left—nor would he have had any incentive to consider the reduction of future economic loss awards to workers with permanent injuries who are not employed in their pre-accident job or a comparable job by up to 40%, often because their employer has sidestepped its obligations under the Workers' Compensation Act or the Human Rights Code of Ontario.

There are a number of other things that you probably wouldn't need to look at either if FIP had been agreed to, but unfortunately the employer directors had blocked the adoption of FIP. One can only suspect that once this government was elected on June 8, they felt that perhaps they could get more out of this government than they could get out of FIP.

However, I want you to note that we, the worker and employer directors at the Workers' Compensation Board,

were able to reach consensus on a number of issues, and one of the crucial ones, in my opinion, was around the 1996 assessment rate package. The board of directors, in its summer meeting, passed a motion to not include a 5% assessment rate reduction in the assessment rate discussion paper that goes out to the employers each year regarding the following year's assessment rates.

We were advised by the administration at the compensation board that a 5% assessment rate reduction would remove \$140 million from the system in 1996 and that in all likelihood the board would be faced with having to draw moneys from its investment fund in order to operate. As you all know, this would have more of a significant effect on the unfunded liability than a dollar-for-dollar basis.

We and the employer directors reached this decision because we were acting in a fiscally responsible manner, even though at the time there was considerable pressure from the Ministry of Labour's office to have a 5% assessment rate reduction indicated in the paper. Had we had more time on the board of directors together with the employer directors, we might have been able to reach consensus on the FIP. After all, we do have a history of reaching consensus with the employer community, and one only needs to look at the work that was done on the previous government's Premier's Labour—Management Advisory Committee and secretariat on workers' compensation.

However, the Minister of Labour has instead opted for firing the board of directors that had made such tremendous progress. One can only ask why. It is true the Tory Common Sense Revolution did make this commitment in 1994 and it seems the minister is going to carry out this commitment whether it makes sense or not. This is nothing more than an ideological move, just as it was when she fired the bipartite board of the Workplace Health and Safety Agency.

It is the workers of this province who suffer from the carnage of workplace accidents, so one must ask, why has their voice been stifled in the very system that was set in place back in 1915 to ensure they were fairly compensated and for which they gave up their right to sue their employer for workplace accidents they might suffer?

It seems to us that the Harris government intends on giving the Workers' Compensation Board over to its employer buddies. Presumably, we'll have a board with the numbers that ensure the unfunded liability will resume its climb at the expense of workers, because although they criticize the unfunded liability in public, privately employers enjoy the ability to offload their current liabilities on the future employers of this province. How else can this be explained?

UFCW Local 1000A wishes to go on record opposing Bill 15 and all that it stands for. On behalf of UFCW Local 1000A, I do thank the committee for the opportunity to present our views and hope that it does not fall on deaf ears. I would now turn over for Herb MacDonald to continue with the presentation.

Mr Herb MacDonald: Good afternoon. I will keep my remarks short. I'm sure you have some questions for the fired board of directors. My name is Herb MacDonald

and I am the benefits coordinator for the United Food and Commercial Workers, Locals 175 and 633. Locals 175 and 633 represent some 40,000 members in the province of Ontario. These members work in 20 different sectors, from industrial, manufacturing, retail, service and health care, among many others. Some of our major employers we have under agreement include the A&P company, the Oshawa Group, Cuddy Foods and Maple Lodge Farms. We also represent approximately 4,500 members in health care.

My comments this afternoon will be on the issue of fraud and the real abuse of the workers' compensation system in Ontario.

Bill 15 provides for a penalty of a \$25,000 fine or up to six months' imprisonment for workers who do not notify the board within 10 days of a material change in circumstances in connection with his or her entitlement to benefits. What does this mean? What happens if a worker receives a severance package, an inheritance, a gift from a family member or wins a lottery?

How can a worker be assured that a change-in-circumstances message left on a voice mail at the Workers' Compensation Board will be recorded? We all know that it takes 14 days within the workers' compensation system for a letter to get distributed, and not all injured workers in this province have fax machines in their homes.

This amendment creates a false impression of workers defrauding the system. There is absolutely no support for massive worker fraud.

The Workers' Compensation Board has recently put sufficient funding into beefing up its special investigation branch in order to detect fraud and has recently passed anti-fraud policies. Has this government investigated those policies? Is there something wrong with these new policies?

What does this language, "material change in circumstances," mean? It certainly is not clear and will, we suggest, create nothing more than confusion and a threatening climate in an already adversarial system.

The Labour minister is blaming injured workers for the problems of the WCB and has stated that the board is on the brink of a financial crisis. Attacking injured workers for fraud might perhaps result in minimal savings to the board, but it will do little by way of dealing with the unfunded liability or the general operating costs.

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Now, let's talk about the real abuse and fraud in the system. First, 55,000 employers owe the WCB \$430,000 in outstanding assessments and penalties. Second, \$200,000-plus per year is lost in revenue annually for NEER, CAD-7 and SIEF schemes. Employers such as banks are currently exempt from the system: 700,000 Ontario workers are denied WCB coverage because the employers have been successful in lobbying governments to exempt them from the system.

Employers and their consultants, with a simple letter requesting SIEF relief, receive a minimum of 50% relief on a claim. Over the past years, our local has reviewed thousands of files where SIEF relief was granted simply by a letter of request.

We suggest this is not only an abuse of the system but out and out fraud and has created a significant draw on the finances of the Workers' Compensation Board. Why has this government not addressed this serious issue? These same employers have been rewarded for their health and safety practices when in fact many of these employers are not in compliance with the health and safety act and some have not done health and safety training at all.

As a trustee of one of our local unions' benefit plans, we have discussed the government's proposed changes to the Workers' Compensation Act, and let me tell you, we are concerned. Unloading the cost of workplace accidents to sickness and accident plans where there is a union and such plans are in place will result in many plans going under and more and more injured workers will end up on social services in this province.

What happens to the unorganized? They will have nowhere to go but social services, at a cost to the taxpayer.

Bill 15 and the changes proposed for the spring in 1996 will have a devastating effect on injured workers, social services and benefit plans in this province. Locals 175 and 633 strongly oppose the changes introduced in Bill 15.

We thank you for the opportunity to make this presentation.

The Chair: Thank you both. Regrettably, that's actually about 17 minutes, but I appreciate the comments you've brought and I understand you'll be sending us a copy of your presentation.

Ms MacKay: Yes, within the next couple of days.

Interjection.

The Chair: We don't have time, not if we're going to keep on schedule. Thank you very much.

Our third group of presenters—

Mr Christopherson: Point of order, if I can: I realize your ruling under the rules we had already set for ourselves, but we did have a discussion about whether or not 15, if kept that tight, would be sufficient. I'm just raising a concern that on the first day, the second group up, there is no chance for any questions or comments at all. I see a bit of a problem. If you will refer it to the subcommittee—but I have some concern.

The Chair: Perhaps it should be referred to subcommittee, Mr Christopherson, but you will recall we also discussed that each group is free to make their entire presentation questions and answers or alternatively to make it a presentation to the committee. So to some extent I think it's responsible for us to leave it up to the groups to decide how best to use their 15 minutes.

RETAIL COUNCIL OF CANADA

The Chair: With that, we invite our third group, from the Retail Council of Canada, to come forward. Good afternoon. I remind any latecomers that we are committed to a 15-minute deadline for presentations, and how you choose to make up that time is certainly your choice. If you want to allow for any questions, it will be taken out of the 15 minutes. So welcome to the committee, and if

you'd be kind enough to introduce yourselves to the committee and to Hansard, that would be great.

Ms Elizabeth Mills: My name's Elizabeth Mills. I'm the director of government relations for the Retail Council of Canada, and I will allow the two gentlemen with me to introduce themselves.

Mr Brian Cassidy: Hello. My name is Brian Cassidy and I'm the manager of occupational health and safety for the Hudson's Bay Co.

Mr Max Roytenberg: My name is Max Roytenberg. I'm a vice-president with the Canadian Council of Grocery Distributors.

Ms Mills: You have a copy of our remarks and I will not actually go through it in its entirety, but all of our detail is provided there. We'd like to thank you for the opportunity to speak with you this afternoon to express on behalf of the retail community our views on workers' compensation reform. As you may know, the retail sector is a very employment-intensive sector, and as a result, in retailing there's a great deal of interest in workers' compensation.

The retail council has direct members representative in every sector of retailing and together account for over 65% of Canada's retail store volume. Within Ontario, we have a representative volume of sales of \$75 billion. In Ontario, we employ 532,000 workers, or one in eight workers in the province. Affiliated with the council are approximately 100 sectoral-specific and regional associations whose members among them account for a substantial additional percentage of retail volume. And, as you've noted, our sister association, the Canadian Council of Grocery Distributors, counts within its membership all the major wholesale and retail food distributors, and they support the views presented within this submission.

The retail council has participated in the initiatives of reform in the WCB in the past two years as a member of the Business Steering Council. The Business Steering Council was established to advise the management representatives of the Premier's Labour-Management Advisory Committee set up by the previous government. The Ontario Federation of Labour represented labour's interest on the PLMAC.

In a recent submission to the minister, the business steering committee made clear again its position on governance, accountability and fiscal responsibility, among other items. The Retail Council of Canada fully supports the views expressed in that submission. I'll be happy to send the committee a copy of that if you would like it.

The business steering committee members have continued their dialogue on structural change since the collapse of PLMAC earlier this year. This committee's opinions on the WCB reforms proposed in Bill 15 proceed organically from the report that committee submitted over two years ago to the Ministry of Labour. The issue of importance remains consistent: In our view, the Ontario WCB system is in crisis, broken financially and structurally. The unfunded liability stands now at a staggering \$11.4 billion, which puts the future viability of the WCB in jeopardy and, importantly, threatens its ability to pay benefits to injured workers.

The extent and nature of the problem has been recognized by all parties. It was the previous NDP government which asked the PLMAC to take on WCB reform based on concerns about the same issues. The Liberal Party, both in its election red book and in the WCB review undertaken by Steve Mahoney, called for major structural and operational reforms. By action and by word, there is an all-party consensus that recognizes this system is in crisis.

There has been a tremendous amount of repetitive time and resources spent examining and developing solutions. What is needed is swift action. This government's action to initiate real change at the WCB is therefore welcome news. The Ontario retail industry applauds these first steps taken by the government to frame a rescue for Ontario's WCB system. It is equally important, however, to retailers that Minister Jackson's review leads to a second wave of sweeping change to an organization in real peril.

This submission will focus now on two areas of announced reform: structural reform and economic reform. In essence, we support this two-staged process of reform because it puts in place an essential framework through which substantive change can take place next year.

The new board of directors is a key element, in our view. The retail industry supports the announced move away from the bipartite structure, a structure and model which led to confrontation, paralysis in decision-making and a staggering unfunded liability. These changes in governance are important if we are to move the WCB away from being a strand of the social welfare safety net and restore the true balance of the system which was established in 1915, that in exchange for giving up the right to sue an employer, employees can expect to receive fair compensation. As well, the return of the WCB to a workplace accident insurance organization also demands a corporate model of governance.

The retail council supports the proposed multi-stakeholder board whose responsibility will be the long-term health of the system. We recognize that this means a shift for the business community in giving up its ability to have representatives who will speak to its interests at board meetings, but we believe it will be better for all interested parties if the board is responsible first to the system's long-term viability.

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This model also promises to give the WCB meaningful and responsive leadership necessary to make the hard decisions and the professional resources required to turn around a system in crisis. A reduction in the size of the board to nine members also creates a more effective decision-making body.

The retail council also supports the inclusion of a clear policy direction role for the government through the revised memorandum of understanding. As outlined, we support the requirement to have a five-year annual strategic plan, an annual statement of priorities and an annual statement of the board's investment policies and goals. This enhanced role for the government makes clear

that this crown corporation is an element of the provincial government which must serve the public's interests as set out by the government.

The establishment of a new requirement for each director to act in a clearly defined, financially responsible and accountable manner helps to restore confidence in the leadership and the administration and direction of the WCB. It will also help to keep the directors focused on their responsibility to correct the financial management problems of the WCB.

The retail council is pleased with the amendments to the purpose clause. In particular, the opening phrase, "The purpose of this act is to accomplish the following in a financially responsible and accountable manner," in our view correctly focuses the activities of the board in securing the long-term financial health of the corporation.

We also fully endorse the six elements of the purpose clause and the order in which they are set out. They represent a clear set of directions and priorities for the board. These are priorities that all participants within the system can support.

The retail council is particularly supportive of the two new objectives within the purpose clause: "To prevent or reduce the occurrence of injuries and occupational diseases at work," and, "To promote health and safety in workplaces." We believe that this integrated approach brings a new focus and role for the WCB in putting efforts into prevention and proactive programs in our workplaces. In this connection, we support the return of the responsibility for health and safety to the WCB.

In the summer of 1995 the retail council began a project to develop health and safety training which we feel will enable us to act on this integrated approach. Designed by health and safety professionals and industry partners, the program will provide certified health and safety training as a tool to improve the conditions in the retail workplace, if approved.

The results of this project and the commitment to train will lead to a retail workforce that is better educated in occupational health and safety and reduced compensation costs. Both health and safety and reduced costs are important to the Ontario retailer in a growing, internationally competitive retail marketplace.

The retail council applauds and fully endorses the direction that the government has set out in governance and accountability, including the extension of the purpose clause to cover the Workers' Compensation Appeals Tribunal.

The retail council makes one final observation on good business practices: Retailers, large and small, have long had to use common sense to reduce revenue leakage, to identify areas of fraud and to implement preventive measures to eliminate these concerns. The retail trade is extremely pleased that this approach is now part of the business processes of the WCB.

Substantive economic reform: The amendments announced on November 1 act only on the first half of this government's commitments. The retail council remains intent on the reforms that will be undertaken by Minister Cam Jackson in the coming months. In some ways, Minister Jackson's review is more substantive than

Bill 15. However, we do believe that the fundamental reforms introduced in Bill 15 make it possible for those reforms by Minister Jackson's process to proceed with due diligence and speed.

The next few pages actually outline some of our specific interests in the reform process, but I won't go through them. I'll leave those to you.

In conclusion, Bill 15 is essential to the success of the future of economic and operational changes expected by retailers at the WCB. This organization will remain in financial peril until swift and decisive action is taken by this new board to retire the unfunded liability. The retail council applauds the government's announced amendments but remains intensively focused on the substantive economic reform to come in 1996.

The Chair: Thank you, Ms Mills. We have about five minutes. First we'll go to a government member.

Mr Ted Chudleigh (Halton North): Hello. Given that Ontario has the second-highest assessment levels in Canada, what kind of effect does this have on your members' ability to invest and create jobs in Ontario, given that most of the competitive areas have access to border states?

Ms Mills: Actually, we have a representative from the Hudson's Bay Co here. Perhaps he would like to speak to that.

Mr Cassidy: I think the increasing amount of assessment that employers are required to pay definitely has an impact on the fiscal health of an organization, and as we become more internationally competitive, this comes more and more into play.

I would like to reiterate my support for Elizabeth Mills's comments pertaining to the financial accountability that the board members will now have to take. I think it's very important that future policy decisions will have to be looked at with regard to the impact they're going to have on the unfunded liability at the board. There's definitely a correlation there between the rates that employers are paying and the policy decisions that the board makes, particularly in 1995, where these days the work-relatedness of a disability increasingly becomes tenuous in nature.

Mr Chudleigh: We hear that Wal-Mart's coming into Ontario big-time.

Mr Cassidy: Oh, they're here.

Mr Chudleigh: There are rumours in the financial press that K mart isn't doing as well as it used to be doing or it's not getting a satisfactory return to its corporate offices. Given the picture that these retailers require a large amount of employees in their companies, what kind of effect does that have when they're deciding on which side of the border to locate their retail operations?

Ms Mills: I don't think it's a question of locating here or there. In fact, the penetration that we will see of American-style retail formats is not going to change. We have adopted several, whether it's big-box or power-shopping centres, but what does become clear is that when you're making a business decision, the tax elements, like a WCB assessment rate, make it that much

more difficult for a company that is here and paying rates to compete with an introduced new format.

Small business generally finds it more difficult to compete against a large new format that's just opened up in the parking lot down the road. It would be a competitive advantage for them to at least be able to sustain a more reasonable level of assessment rates. Given that we have the second-highest ones in the country, it really speaks to the fact that while we have a volume of employees here, we simply aren't operating a system that reflects the true cost.

Mr Roytenberg: Mr Chudleigh, if I could just respond, we had a cross-border shopping study very recently, and the area that you identified was one of those pinpointed by the consultants as an area where we have a disadvantage, relative to our competition across the border, in areas of overhead and of costs related to these kinds of services and taxes. The tax area and the overhead area were two that were pinpointed as placing Canadian distributors in a particularly difficult position relative to their competition across the border.

Mr Duncan: Ms Mills, you favourably referenced our red book in here, and it's so seldom that happens that I felt I had to ask a question. Two issues: One, could you define for me how you see the new purpose section differing from the old purpose section and what substantive weight you see with that? Secondly, since you did reference our Back to the Future document, would you agree that an amendment stipulating equal representation on the part of labour and management, as well as who the other stakeholders are, would be supportable to your organization?

Ms Mills: I'll answer the first part first. In fact, the indication that we made both in referring to your Liberal red book and the Back to the Future document, from our point of view, simply means that the Liberal Party, as well as the other two parties around this table, has already itself initiated a dialogue about a system that is in crisis.

The patterns of reform that have been indicated in your Back to the Future document—I wouldn't necessarily proceed along all lines. I think that what Steve Mahoney had intended for that document to do was to highlight a series of recommendations that he felt would put the system a further step ahead. I wouldn't support an amendment to have equal representation of I believe you said employees and—

Mr Duncan: The bill calls for labour and management reps in a multistakeholder model.

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Ms Mills: Right.

Mr Duncan: What we said, and you referenced our document in yours, is that we would have equal labour and management reps among a broader multistakeholder model. Would you support that kind of an inclusion?

Ms Mills: No.

Mr Duncan: Secondly, could you define for me how the purpose act now differs from the existing purpose act and what weight in law you see it having?

Ms Mills: I think in fact for us it is the addition of prevention and health and safety within the purpose

statement, and the way it's now been highlighted. For us, what we anticipate in addition to support that, though, is the agency moving within the WCB. Structurally, then, you're actually integrating two systems which currently are duplicated, and we feel that there ought to be a relationship with the performance that industries are able to achieve. Their accident rates should also be related to how they are proceeding with health and safety training.

Mr Duncan: If I can, though, your document addressed financial accountability in the purpose clause.

Ms Mills: Yes.

Mr Duncan: The question relates to financial accountability, and I just wondered how you see the new clause differing from the old legislation. The subsections on health and safety aren't addressed in your document. In your document you address financial accountability, and I wondered how you see it differently, just basically rearranging the purpose clause.

Ms Mills: I don't think that the last purpose clause in fact gave the correct amount of emphasis to a financially responsible and accountable system. There has been a reorientation of the purpose clause which makes it much more clear that the entire system and the WCAT are to be held financially and fiscally responsible and that the directors of the board themselves will have to act in that way.

The Chair: I'll have to cut you off at that point.

Ms Shelley Martel (Sudbury East): I'm very curious. I wasn't too surprised by most of the contents of what you had, but there was one comment and one point of view that I find quite bizarre, and that is with respect to moving away from the bipartite model, which you said was one that led to confrontation, paralysis in decision-making etc.

The reason I was curious is that I note your friend from Hudson's Bay who is here also had a colleague, a Mr David Crisp, vice-president of human resources from Hudson's Bay Co, who sat as one of the management representatives on the bipartite board. The reason I am curious about this is that I wonder why you would move from that model and I wonder if you can answer for me whether or not you thought Mr Crisp was qualified to be selected from his peers in business to participate. Secondly, if it was such a problem, why did he continue to participate right up to the point that he and all the other members were fired?

Ms Mills: I'll speak to that. I think the appointment of David Crisp to the board was a very wise decision. Within the economic makeup of Ontario, retailing is a significant portion of the economy. It only makes sense that under the previous bipartite structure you would have a representative model that would have included many different varieties. I think also Mr Crisp is well qualified as a VP of human resources of a large corporation that represents a large number of employees in a sector that has a low-risk level. That that perspective would be under that structure under the previous government would be an important element to add. I don't think Mr Crisp's qualifications were ever questioned.

The participation of the board of directors was a long-standing, frustrating and at times almost antagonistic

process for both sides. I think the design of a bipartite structure, as has been highlighted in other agency assessments, like the agency one, has been well documented, particularly the way in which it was run in Ontario, as being very fruitless in terms of being able to move forward.

If Mr Crisp was fired, I don't think that Mr Crisp would view that as necessarily a negative comment on his abilities.

Ms Martel: Oh, I think he was quite capable, along with every other board member who was there. The experience that you relate with respect to the board of directors' experience is quite different from a labour member who we just heard from previously, Ms MacKay, who said that a number of important changes that were very positive took place and that her experience, as quoted by the minister, one of confrontation etc, was just not the case.

I guess why I raise the question again is, if it was such a problem, if the bipartite group was such a problem, why did the management members in particular continue to participate in this particular mechanism? This is a very important board of directors. I would think everyone who was appointed was qualified. If it was such a problem, if there was such confrontation, why did they continue to participate up till the point that the minister fired them all?

Ms Mills: To use your own words, I think that because it's such an important system and a vital part of any business decision, it's not always productive to stomp out of any committee meeting or process and not participate. Once inside the tent, to continue the dialogue is often more productive, at least in terms of providing information to the rest of the employer community, and certainly that was the well-intended role of a lot of the board of directors who did find it frustrating, and probably, had they had a personal choice, might have left earlier.

The Chair: Thank you very much for your presentations and your answers. I appreciate your taking the time to come and see us today.

BUILDING TRADES WCB SERVICES

The Chair: We'll now hear from our next group, the Building Trades WCB Services. Good afternoon. You have 15 minutes at your disposal.

Ms Julie Nielsen: Good afternoon. My name is Julie Nielsen. I am a WCB specialist with the Building Trades WCB Services. WCB services is a project of the Toronto-Central Ontario Building and Construction Trades Council, which has over 30 affiliates within its jurisdiction. Ten of those affiliates participate with this project, and the concept of the project was created because injured workers within the construction trades needed assistance with their compensation claims.

I represent a variety of construction trades from bricklayers to painters, drywallers, boiler-makers, asbestos workers, electricians and iron workers. All these trades have several commonalities. Their members work in fields that are of heavy physical, demanding labour. Work opportunities may be cyclical in nature, of short duration,

with several different employers during any given year and at temporary work sites and conditions that differ from many other sectors. All of these factors make construction a unique industry and one that requires specific regulations to address the needs of its injured workers.

It is interesting to note that the Occupational Health and Safety Act has regulations specific to construction, yet if health and safety practices fail within that workplace, there are no sector-specific regulations or guidelines to address the needs of injured workers within this unique industry.

The government introduced Bill 15 on November 1 with two ideas in mind: to change the governance and the accountability structure of the board and, secondly, to put the system back on a sound financial footing to protect the future needs of injured workers.

It is our position that, again, the government is creating a crisis. The WCB is not on the brink of bankruptcy. The unfunded liability is not a debt. The unfunded liability represents the present cost of future payments owed to injured workers in this province by their employers for their present claims. The WCB, again I repeat, is not bankrupt. It has more than \$6 billion in assets. In fact, in the past, employers have opposed a fully funded system on the basis that they did not want a fund of billions of dollars in the control of the board, but instead wanted access to that money for current investment under their own control. Now they complain about a crisis, and this government is using this false understanding of financing of a compensation system to attack workers.

1700

Subsections 103(4) to (9) address the merit systems that are currently practised by the Workers' Compensation Board. The concept of surcharges and refunds had been minimally used since the early 1950s, but we have seen an increase in the amount of surcharges and refunds since the early 1980s. These increases are a result of the NEER and the CAD-7 programs. NEER stands for the new experimental experience rating program, which is applicable to all sectors, and CAD-7 means the council amendments to draft 7, which is specific to construction. The CAD-7 program was established on a trial basis in 1984, and unfortunately it is still with us.

These programs have encouraged employers to engage in undesirable practices in an attempt to hide compensation claims, to minimize severity of accidents and contest established claims. Practices that we encounter are inappropriate reporting of accidents, incorrect reportings of earnings basis, improper reporting of lost-time claims as no-lost-time claims by leaving the injured worker on full payroll doing meaningless work or no work at all in some cases, and utilizing the appeal system to obstruct claims.

These programs have enticed employers to hire expensive consultants on a contract basis to monitor and contest claims involving benefits and services, in that they get a percentage of the savings realized by the construction company. Within the CAD-7 program, construction employers are encouraged to offer vocational rehabilitation programs, like modified work, in order to reduce

their accident costs and collect credits or rebates. In essence there is an abuse of the light-duty modified work program. Employers are also encouraged to report no-lost-times accidents, as this too reduces their accident frequency history and again provides them with rebates.

Bill 15, as you know, was introduced on November 1 and it is the opinion of the council that Bill 15 be withdrawn. It is not in the best interests of either injured workers or the employers in this province.

The fraud section that has been raised is not clear. We need definitions as to what "change in circumstances" is. It's a situation today that the system that we have isn't perfect, but I believe it's a system worth keeping. With the presentations that we're seeing in the first stage of changes, it does not bode well, and I speak both for the workers I represent and the employers who are on the other side of the table when I'm going to hearings.

The whole question of refunds and rebates is one which pits the worker community against the employer community. Employers have a responsibility mandated by the Occupational Health and Safety Act. If they fail to provide what is required of them by the act, then it is our opinion that they should be assessed penalties and have their assessment rates increased to reflect their true accident history. But are those assessments being collected? It is our position that they're not.

I hear too much about the fraud committed by injured workers in this province, and I suggest to you today that there is more fraud being committed by the employers of this province than by the workers. Some of that is on the part of the compensation board itself. Their fraud squad is very keen on looking at injured workers, but I can tell you, in preparing for a hearing I had a corporate search done on a numbered construction company. I found 16 different companies related to that numbered company, and basically what they had done was opened doors and closed doors to escape their assessment costs. That is not being checked upon.

As I said earlier, I do believe the system that we have is worthwhile keeping, but when I see a government coming in with the plans that I'm seeing within Bill 15, I have to come in front of you and tell you to withdraw it.

Given the short notice for this appearance and due to my heavy schedule of hearings and caseload work, the brief that is being worked on is not prepared; it will be ready in the morning. It's being printed at this time and it will be sent to the committee. Thank you for the opportunity to address you.

The Chair: Thank you very much. The first question will go to the government side. Mr Baird.

Mr Baird: I want to thank you for your time in appearing before us today. It's appreciated.

I have two questions. The first discusses the issue or whether or not the unfunded liability at the board, currently at \$11.4 billion, is a problem. Certainly there seems to be broad opinion, far from unanimous but broad opinion, that there is a crisis at the WCB, financially speaking, but everyone I've spoken to and talked with admits that real action must be taken on the \$11.4-billion

unfunded liability. I guess I'd like first to get your thoughts on it. Does your union believe this is a problem or it isn't a problem?

Ms Nielsen: The unfunded liability is of concern if it continues to grow. But if you were able to recapture the funds that are owed to the board, then the unfunded liability would not be the problem it is today.

If you go back on the annual report from 1994, in 1985 the unfunded liability was at \$5 billion, I believe; it's now at \$11 billion. If you take a look at the true dollar figure and the dollar value in 1985, I'm not too sure there's that much of a difference between what the board had as an unfunded liability in 1985, as opposed to what it is in 1994-95. But again, I think it's something that we have to look at inside the board in collecting the money that is being owed to the board.

Mr Baird: Obviously there'd be a big disagreement on that issue, but I certainly respect your opinion.

With respect, you brought up the issue of fraud. This bill of course contains both measures to go after fraud with \$100,000 fines to employers who fail to register; as an addition, on the other side of the coin, to employees who fail to register. The issue of the definition of "material change in circumstances" could come up. What would your definition of that be and what are your thoughts on the employer fraud measures in the bill?

Ms Nielsen: I have no opinion on "material change in circumstances." It's the government that brought it in and I think the government should be defining it for us. As far as the second part of your question, yes, fraud is identified, but again I'm only going to go on past experience, that even though there are in the present act as it stands penalties and assessments against employers, it's not being collected. So if it's not been collected in 1990 or 1994, then what's to say with the new amendments, with Bill 15, that we're going to see it collected in 1995?

Mr Baird: Your administration of the act is very important and I'll certainly take that—

The Chair: Any questions from the opposition?

Mr Duncan: I want to come back to this question of the unfunded liability, because quite frankly, before I came to this place, I bought into the argument that it was a huge problem. A number of groups have made this argument for me. I always viewed the unfunded liability and the size of the unfunded liability as representative of the board's ability to pay workers in the future and, as such, should be taken very seriously. I would like to hear you expound a little bit more on that whole issue, because I'm very intrigued by this line of thinking that while it's a problem, we ought not to blow it out of proportion. I'd just like to hear you say a bit more about that.

Ms Nielsen: I agree with you that we've heard many stories. Working in the compensation system, I'm more on the hands-on as far as caseload goes. When we came into Bill 165 and we heard this great horror story about what the unfunded liability was, we had it explained to us in the sense—

Mr Duncan: Bill 165, that was last year?

Ms Nielsen: That was in January. What we had explained to us was that it's the money the employers are to be paying into. Now, it's going to grow if they're not paying into it. If I have an injured worker who was injured back in 1987 and he's collecting a pension and that company's gone out of business, then how is that money to pay that worker going to be there?

Mr Duncan: Yes, I understand the principle of it. Again, as I say, you're not the first group that has expressed this notion that while it's a problem, it's not a crisis. I'm wrestling with that legitimately myself. But I view it, frankly, as a measure of the board's ability to compensate injured workers in the future and therefore should be viewed very seriously.

Ms Nielsen: I'm not taking away from the seriousness of it; I'm saying if the board had the ability and did their job in the present state, the way they're there, to collect the money from the employers that is owed to the board.

1710

Mr Duncan: The other issue that's been brought up in this light is the notion that we've been digging into the accident fund, I guess, to the tune of \$400 million a year—correct me if I'm wrong—the last three years, four years, to subsidize current operations. Again, I'm troubled by that in terms of what it means. If you reference the annual report, this is the first year we saw an actual decline in the accident fund; it was down 1.7%, at least the return on the accident fund was. Would you agree that we do need to take steps, at least some steps, to address the unfunded liability?

Ms Nielsen: Most definitely, and one of the areas that I think should be looked at very seriously is that the assessments the employers have been paying have been going down. They've been going down on a yearly basis, and if it continues to go down and the number of accidents continues to go up or that payments are still going out to injured workers, then the amount of money that's required becomes higher, and if the assessment rates are coming down it's not going to meet—

Mr Duncan: Now, employers argue—just one?

The Chair: No, sorry. We're going to have to proceed. Mr Christopherson promised a very short one.

Mr Christopherson: Thank you, Mr Chair, I appreciate the opportunity. The government's been talking a lot about fiscal accountability and fiscal responsibility. Both the government and the Liberals have advocated a 5% cut in the assessment rate. Given your expert knowledge of the WCB and the unfunded liability, can I ask you how much sense you think that makes in terms of fiscal accountability and responsibility to be advocating a 5% cut in assessment rates, given the circumstances that we have?

Ms Nielsen: Absolutely none, none whatsoever. They're talking about cutting benefits to the workers. My understanding was that they had frozen the assessment rates. But to cut assessment rates is absolutely ludicrous in the eyes of injured workers and to the representatives out here.

The Chair: Thank you, Ms Nielsen. I appreciate your coming to make your presentation. We'll look forward to receiving your written comments.

INDUSTRIAL ACCIDENT VICTIMS GROUP OF ONTARIO

The Chair: Our next group up: the Industrial Accident Victims Group of Ontario. If they could come forward and introduce themselves to the committee and Hansard.

Just a reminder again, if you were late coming, we have a 15-minute time limit, including questions, so please govern yourself accordingly. Thank you for joining us today.

Ms Airissa Gemma: Can we take half a second for some water?

The Chair: Certainly.

Ms Gemma: First of all, I'd like to thank you for the opportunity to hear us out. My name is Airissa Gemma and I work at the Industrial Accident Victims Group of Ontario, which is a legal aid clinic that's funded by the legal aid plan. Our clinic represents injured workers who can't afford the services of a lawyer. We're talking about financial crisis—you should come to our clinic for a couple of weeks and you'll see financial crisis there.

I'd like to start by introducing the people from my clinic who will be speaking on some of the issues in Bill 15. With me is Sebastian Spano, community legal worker; Alberto Lalli, also community legal worker; and David Wilken, who is a student at law.

First of all, I'd just like to start off by mentioning that we are here but it took us a lot of scrambling to get here. We were notified very late Thursday and we haven't got a prepared submission or brief written. Hopefully we'll be prepared. We're a clinic of eight people and so it wasn't possible to prepare for a written submission.

We would like to remind the members here that the process doesn't give enough time for everybody who is interested in making submissions to the committee to have the opportunity to do so, and also we didn't get enough notice, and organizations that are outside of Toronto—I'm not aware of, but I don't believe have gotten notice. So I would kindly remind the members that we understand there's going to be a new bill in the spring, according to the Minister of Labour, and we would like the opportunity to remind them that we'd like enough notice so that everybody who's interested in making submissions will do so. Thank you very much.

I would like to turn it over to Alberto Lalli.

Mr Alberto Lalli: I will be referring to the bill itself. What can be said is that unfortunately it offers nothing to injured workers but more hardship. We know that this is just a preamble. As Airissa mentioned, the real bill is still being cooked in secrecy and behind closed doors. We have no idea. We can smell the cooking stuff and it's not to our liking, unfortunately.

Even in this bill, what seems to be positive at first glance, it turned out to be a mirage. For example, workers have now the possibility to get reimbursed for money which has been wrongfully deducted from their wages to pay for the workers' compensation assessment. But, and this is a big but, they will receive this money only if the employer is successfully prosecuted for a provincial offence and the board is able to collect the

court order restitution moneys from the delinquent employer. If these conditions, both of them, are not met, the board will simply keep the stolen money and the workers are out of luck.

Unfortunately, this is the general tenor of the bill. Workers are supposed to pay up front for whatever it is that they owe money—overpayments or whatever—while the employers will pay when the board gets around to enforcing the statutory provisions regarding penalties and employers' obligation. And we who have been working in the area of workers' compensation helping injured workers know what the attitude of the board has been in regard to our recovering moneys, whether for penalties or whatever, from the employer.

The Minister of Labour has mentioned in Hansard that this bill will bring hope and optimism, and we also believe that and agree wholeheartedly. It's going to bring hope and optimism to employers. Employees have to be given the control of the board of directors and workers will be faced with the criminalization of the compensation system. Although it's always been possible to prosecute fraud artists under the Criminal Code, this bill will put workers now facing an unfamiliar system in danger of prosecution for failing to disclose a material change in circumstances. This is a term so vague that not even lawyers can be able to agree on what it really means, and I realize that was one of the questions here by one of the members. And it's true, there is no definition and nobody knows what "material change of circumstances" will mean.

Likewise, workers, their family representatives, health care providers, anybody who will call to the board on behalf of the worker, will be subject to a police interrogation regarding the statement with some bureaucrats at the board and he could be accused of misleading or giving some false information. We don't know how they, the bureaucrats at the board, are going to determine that. It could be said that this bill, the people who brought this bill, the government, will dismiss these scenarios, that they are unrealistic and will never happen. We don't think so. We have been dealing with the board for quite some time. It will be certainly no easier to secure a conviction under these provisions than under the fraud provisions of the Criminal Code.

So the question is, why no offences are created in the act? Why give employers and bureaucrats even more tools to threaten and intimidate honest injured workers, their families or friends in the absence of any evidence of significant worker fraud? When I say that, I don't mention that because we are representing injured workers; I'm just basing on the annual report, 1994, from the board that is so full of figures and graphs and numbers in every section, but with the section dealing with fraud there is nothing. On the contrary, the only thing that it says is they won an award for innovation in the public sector. So once again, we're seeing that the fraud crisis as one of the reasons why the compensation system is going bankrupt is bogus. It's a big lie. And we believe that this will be used, once again, against injured workers.

We see that always, too often, injured workers who spend years of hard work and loyalty to companies all of

a sudden suffer an accident and they're then accused of being liars by their employers and by the board. Now they can also be prosecuted by this situation.

People will say that it is also mentioned in the bill about employers' fraud. While it's true it's there, I would like to remind people of the words by our Premier, Mike Harris, which he mentioned. There are two kinds of fraud: one that is irresponsible and should be prosecuted to the extent of the law; and the other one that is reasonable or understandable. He mentioned, on the one hand, the so-called welfare fraud as being the one that we should step on and eliminate; and the other one, in regard to employers cheating on taxes, considering that they are being taxed to death, it's understandable that they cheat.

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If we transfer that to the situation with compensation, we think that will also happen, because everybody's mentioning that the assessments are high, the second highest in Canada. So it would be understandable that some cheating will go on, or it would be reasonable.

So why is this fraud crisis created? We think that, besides being the government's idea, creating crisis to put forward policies and legislation, this is just a part of a larger strategy pursued by extreme elements of the employment community. By creating the artificial financial crisis, it will justify the destruction of the workers' compensation system and the reduction of injured workers to charity cases. This artificial crisis has been propagated in a number of ways. Mr Spano will deal with those ways.

Mr Sebastian Spano: I'd like to talk a little bit about the so-called invented funding crisis, financial crisis in workers' compensation. I know you've heard this from other groups, and I think you should hear it time and time again, because that's all it is. It's simply a myth; it's a crisis that's being invented.

What exactly is the unfunded liability? Is it a debt? Well, it's not a debt. You've heard this before. The WCB has never been in debt, it's never borrowed a penny. Have you ever heard of a WCB debenture bond? There aren't any.

So what exactly does the WCB have? The WCB has, as of March 31, 1994, \$6.8 billion in assets. That's almost \$7 billion. What it represents really is \$7 billion that is not in the hands of the employers to generate jobs and to generate income and profits for themselves. It's a pool of capital that the board is investing, in fact, all over the world; it is not investing it in the jobs. Certainly it is not in the hands of Ontario businesses to be invested in their companies.

So what is the unfunded liability? Well, I think the proper way to characterize it—there are a number of ways to characterize it, and one of them is that it's simply an accounting of how much employers owe workers of Ontario. It's also an accounting of how much employers are keeping in their businesses and not paying up front.

Employers have a choice. When a worker gets hurt and there are damages and he's injured, there's going to be loss of income in the future, there are damages for loss

of use of their body, they have a choice: They can pay it all up front or they can pay it a little bit at a time. They can pay a little bit this year to meet this year's costs. They'll pay a little bit next year to meet next year's costs and so forth. It's a sensible system, it's an economical system and it works best. To characterize it as a debt is really irresponsible.

There are other mythical debts that are being created here. I read in Hansard Cam Jackson, the minister responsible for the WCB, indicating that the board in fact did not have an operating surplus of \$130 million last year; that it was sham accounting by the WCB. Well, I'm sorry, I think either he needs a lesson in arithmetic or he should check the annual report. In fact, there was a \$130-million surplus. They did not draw into the investment fund. He simply didn't count the amount from investments. He simply said yes, there was so much from employers, but he didn't count the amount that the board earned on its investments, and that's how the surplus was created. But this is typical.

Now, is it true that the employer assessments are skyrocketing? Not at all. Actual assessment rates, once the experience rating off balance has been taken into account, are at their lowest level in 10 years, and I should mention how much employers received as bonuses through experience ratings: \$359 million. This is net. This is after the surcharges were taken out. That's \$359 million that leaked out of the system. For what? Simply as a reward for employers to obey the laws of the province. I'd like to be rewarded for legally conducting my affairs.

There's also the problem of the accounting of the unfunded liability. It's based on really unreasonable actuarial assumptions. Most important is that the inflation rate will never rise above 4%. This is of course absurd. Certainly we can expect that over a number of years into the future it will exceed 4%, and whenever it does, any difference in that will mean a huge windfall for the fund. So this is another example of cooking the books, if you will.

If there is a crisis at all, the crisis is that the board is not enforcing what it should be enforcing; namely, employers who don't pay assessments, employers who don't register, employers who falsify or underreport their assessable payroll. This is the crisis in compensation, not the worker benefits.

Thank you very much.

The Chair: Thank you. I think if truth be known, unless Mr O'Toole can pose his question in about 30 seconds—

Mr O'Toole: Just a quick question. How do you explain that? If I may, through the Chair, how do you explain the Provincial Auditor's report that makes a very important point about this unfunded liability? I would expect as a true auditor and an objective auditor that his statement of the real future cost of existing claims is real, and expanding at an alarming rate. How do you explain that?

Mr Spano: My colleague Dave Wilken will answer that.

Mr David Wilken: I'm not sure which report you're exactly referring to.

Mr O'Toole: It's the Provincial Auditor's report.

Mr Wilken: From what year?

Mr O'Toole: For 1995. Just published a couple of weeks ago.

Mr Wilken: I'm not familiar with the details of that report.

Mr O'Toole: It's been the subject of the last two auditor's reports. Not only that, I take that as being an objective, sound financial statement that the province should have some concern with, and most of your argument or presentation today has indicated—it's liberally dismissed this as not a real number.

Mr Wilken: There are several concerns with respect to this. The last one that Sebastian was speaking about, the actuarial assumptions, I don't know whether or not the auditor went behind those in making those determinations, because while it should be said that a 4% annual inflation rate is a good historical benchmark, using that to calculate the amount of the unfunded liability ignores the fact of the cap and the partial indexing formula. If you didn't have that cap there, that would be a fine way of calculating the unfunded liability. But given the cap, in years when inflation goes over six and two thirds per cent, there will be an incredible windfall to the accident fund and that windfall will continue to grow over subsequent years as workers fall farther behind in inflation indexing.

This is a problem that, as far as I know, has not been addressed anywhere. The only costing that was given to us by the Ministry of Labour on the savings from de-indexing used this assumption of 4% inflation each and every year as the maximum, so that that cap would never come into play.

The Chair: Thank you, and with that, I'm afraid we're out of time.

Just to comment or respond to Ms Gemma's comments at the start of your presentation, we certainly do appreciate those who were able to find the time to come out the first day. We know it was on short notice. If you do have an opportunity to prepare a written brief, however, we have till December 6 to assimilate that.

I should note that only two speakers after you we have a group that's come all the way from Ottawa, so we will have many deputations, I'm sure, that will be from outside Toronto, but thank you again for this group taking the time to come and see us today.

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CANADIAN AUTO WORKERS

The Chair: Our next group up is the Canadian Auto Workers, national office. Good afternoon. If you'd be kind enough to introduce yourselves to the committee. We have 15 minutes to be divided as you see fit between presentation and questions.

Ms Cathy Walker: Thank you very much. My name is Cathy Walker. I'm the national health and safety director of the Canadian Auto Workers. With me is my colleague Nick De Carlo, who works in the health and safety department with me, who has prepared the brief that we'll present to you this evening.

We want to begin our presentation by strongly protesting the manner in which these hearings have been organized. First of all, there's been little notice. We were informed only last week that these hearings were taking place. Only on Thursday of last week were we informed of the hearing schedule. As it stands now, the committee has scheduled only three days of hearings on this most important bill, all of which are to take place in Toronto. This makes it almost impossible for a true cross-section of unions, injured workers, advocates and community organizations to make presentations to this committee. Most will not be able to travel to Toronto or to make presentations. Let me emphasize that our CAW local unions in communities throughout Ontario have their own points of view, their own experiences with the WCB, and must be heard.

It's apparent that there is no real intention to consult with working people in Ontario, those who are most affected by this legislation. This is not democracy. Moreover, the government of Ontario, which has a responsibility to protect the interests of the people of Ontario, has consistently acted in an undemocratic manner. From the moment of taking office in June until convening the Legislature at the end of September, the government cut spending and reduced social programs in this province like never before, without opportunity for a response from or a debate with the opposition. This is not in the democratic tradition.

Upon convening the Legislature, Bill 7 was forced through without debate or public hearings. This was an unprecedented disruption of the democratic process. Now we're having public hearings on Bill 15 that allow for only token public input. Moreover, Bill 15 is, in its very content, in full disrespect of the laws of Ontario and the rights of its citizens.

Previous to Bill 15, the Occupational Health and Safety Act and the Workers' Compensation Act defined the structure and the makeup of the board of the Workplace Health and Safety Agency and of the Workers' Compensation Board. Without changing the law, and in direct contradiction to it, the government of Ontario fired both boards. Now, after the fact, Bill 15 proposes to outlaw any lawsuit or civil proceedings against the government for these violations of the law. You have them in quote there.

Never have we seen in Ontario a government that has acted so unilaterally, with so little regard for the traditions of parliamentary democracy in this province. This is not what the people of Ontario voted for.

Safety is deteriorating; workers are being killed and injured. In the last number of years, workplaces across the province have been speeding up production and scheduling more and more overtime. Profits have been soaring in private industry. But health and safety enforcement has been deteriorating, and health and safety for workers has declined. According to statistics from the Ontario Ministry of Labour, critical accidents have increased almost 80% from 1991-92 to 1994-95. Complaints are up 37% in the same time period. Workplace inspections are down 55%. Orders issued have decreased almost 50% in the same time period.

The situation is already unacceptable, yet by reducing health and safety inspection and limiting the right of workers to refuse unsafe work, a measure already under active consideration by your government, the government of Ontario will be acting to reduce enforcement of safety standards, worker training in health and safety, and the workers' ability to protect themselves. By reducing the right to compensation, the government of Ontario will drastically reduce the protection for workers injured on the job.

This action by government, based on the CSR agenda, will increase the number of workplace injuries. Government legislation will remove basic rights to safety and security at work: security for the workers themselves and for their families. This is not what the people of Ontario voted for.

The introduction of Bill 15 and the announcement of plans to reduce the budget, staff and resources of the Ministry of Labour inspectorate signify the fundamental transformation of health and safety enforcement in Ontario. Health and safety enforcement is necessary to protect the safety, health and livelihood of Ontario workers, but we are going from a recognition of the need for the government to enforce health and safety standards in the workplace to a system of voluntary compliance. This has never worked and it will never work. The truth is that employers are, as a whole, pushing to make greater profits at lower costs in wages and benefits to workers. This has always meant increased injuries in the workplace. The statistics above show that is exactly what is happening today. Enforcement of health and safety in the workplace has been deteriorating and injuries are rising.

The Workers' Compensation Board recognized 233 work-related deaths in 1994, nearly one for every working day of the year. The reality is a figure much higher. Several years ago it was estimated in a study by Dr Analee Yassi, commissioned by the former Conservative government, that 6,000 workers die every year in Ontario from occupational diseases. Nothing indicates that this number has been reduced.

Bill 15 enshrines in law the dismissal of the Workplace Health and Safety Agency. Workers will no longer be represented at any level in the application of health and safety in Ontario. The board will be replaced by a single executive director. Democracy with input from the workers and their representatives is eliminated in favour of the old boys' club.

Health and safety training for workers has been severely reduced and even eliminated in non-union workplaces as a result of the curtailment of certification training. Funding has been reduced for the Workers' Health and Safety Centre, while funding for employer groups has gone untouched. It is clear that the government is intent on removing workers from a position of influencing health and safety while employers are gaining more freedom to disregard safety violations.

Continuing on the CSR path will cost workers' lives. We have no choice but to resist. We submit and indeed demand that Bill 15 be withdrawn, that funding be maintained for the Workers' Health and Safety Centre, that the health and safety inspectorate and resources

allocated to it be expanded, that the enforcement of health and safety laws be strengthened.

The basic concept of workers' compensation has always been that a worker injured at work in the service of his or her employer is entitled to compensation for the injury and the right to return to gainful employment. The responsibility rests with the employer to pay the cost of compensation. In return, workers gave up the right to sue the employer. These are the fundamentals of the Workers' Compensation Act, first proclaimed in 1914 under a Conservative government. The act was based on a report by Chief Justice of Ontario Sir William Ralph Meredith.

Meredith rejected the concept of contributory premiums paid by workers and/or financing from government revenues. Why should this be so? Because the injured worker has given his or her health in the service of the employer for the benefit of the employer. Because the employer is ultimately in control of the safety of the workplace and therefore responsible for injuries that occur.

The crux of Bill 15 and of the planned changes to workers' compensation announced by the Minister of Labour is to reverse this concept and replace it with a vision of workers' compensation as a form of insurance. No longer will workers be able to expect full employer-funded compensation for their work-related injuries. Instead, they'll have little protection.

The Ontario government is laying the basis for this by emphasizing the unfunded liability of the board of \$11.4 billion. They say that the workers' compensation system is "on the brink of financial crisis." They imply that workers are responsible for its financial shortfalls due to fraud. The government is manufacturing a crisis in order to influence public opinion to justify dismantling the compensation system as we know it, in order to justify instituting draconian measures against workers.

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The unfortunate truth is that the Ontario government is deceiving the people of Ontario. The workers' compensation system is not in crisis. Last year, the board made a declared surplus of \$130 million after paying \$359 million in rebates to employers. Far from being broke, the board has over \$6 billion in investments.

The bottom line, however, is that the unfunded liability is not a debt or a deficit: it is a cost to employers to cover workplace injuries, a cost that is rising because of the increase in injuries. It represents the cost the employers will have to pay in premiums for current and future injuries. Rather than addressing this cost by moving to reduce workplace accidents and toxic exposures, the Harris CSR agenda chooses to reduce workers' security and protection from accidents while allowing employers more freedom to work unsafely.

Is that what the Harris government means by more democracy in the workplace? This is a cruel and vicious ruse on the people of Ontario designed purely to increase profits to business. Why the drive to increase profits? The issue here is not the competitiveness of Ontario businesses. In 1994, there was an \$8.8-billion investment in the manufacturing sector of Ontario, the most for any single year in Ontario's history. Executive salaries are up

18% over last year. The average wage of a chief executive was \$632,000 last year.

No, the real issue here is greed, pure and simple. Business wants more profits and the government is going to give them to it. How? By reducing employer costs for health and safety and workers' compensation. Thanks to the high level of unemployment, there are plenty of unemployed to replace workers injured on the job. The Harris agenda is a sham.

What are the changes to workers' compensation, both promised and being considered, by Minister Witmer? You know them very well, and we are opposed to these proposed changes. All of these proposals would take place while premiums for employers would be reduced by 5%. Employers' costs would be further reduced by cutting off thousands of workers from benefits.

Bill 15 sets the stage for the fundamental restructuring of workers' compensation in Ontario. It removes the input of workers' representatives, formerly half the board, from the board's system. No longer will workers have a say in the compensation of injured workers.

Instead, government will add representatives of the private insurance companies, both at the board and management levels. This will happen despite the fact that private insurance companies are not stakeholders. They're not covered by workers' compensation in Ontario. They don't pay any premiums to the board. Employees who work for private insurance companies are not covered. The real agenda here is to eliminate the influence of workers, the real stakeholders in workers' compensation.

Ultimately, there is the real threat of the introduction of a law to privatize workers' compensation in Ontario, and we are completely opposed to this.

Bill 15 criminalizes workers. While companies are defrauding the workers' compensation system—more than 55,000 employers owe the board \$430 million in outstanding assessments and penalties—the government is targeting workers. Among other things, a worker who fails to inform the board of a "material change" in connection with his or her entitlement is guilty of an offence. We are opposed to this proposed change. The definition of "offence" is wide open to interpretation. It's completely unclear what such a material change will mean.

Finally, the new purpose clause makes "financial accountability," contained in the first sentence of the clause, the overriding principle of the act rather than full compensation for injuries. This is entirely unnecessary.

Eliminating worker input, criminalizing workers, manufacturing a financial crisis and importing private insurance companies into the WCB system are the key pieces to the new direction in workers' compensation under the Harris agenda. These changes, combined with the cut-backs outlined above, make for a compensation system that penalizes workers for being injured. These changes, like others, attack the most vulnerable in our society.

We demand that workers' compensation remain an employer-funded, publicly administered system and that it be designed to fully compensate workers for injuries caused by or related to the workplace, or to provide a return to work at the pre-injury job or its equivalent.

We demand that costs of compensation be reduced by preventing injuries, not by penalizing workers.

Finally, we demand that the Harris government live up to its responsibilities to the workers of Ontario to ensure safety and security in the workplace.

The Chair: Thank you both. Your timing was excellent. Actually, you went about 16 minutes, but we appreciate the presentation and your taking the time to come and see us on short notice.

FEDERAL EMPLOYERS TRANSPORTATION AND COMMUNICATIONS ORGANIZATION

The Chair: If we can proceed to our next group, the Federal Employers Transportation and Communications Organization, we are grateful you've made it all the way down from Ottawa to see us this afternoon.

Interjection.

The Chair: Let's see if we can get as much in as possible. If anything, we'll grant a couple of minutes' consideration. We should just note that there is going to be a vote in the House at 6 o'clock and all committee work must cease for the time of the vote, but hopefully it's only a five-minute bell. So with your indulgence, if we could get at least partway, if you don't see that as a major dislocation, we'd like to get as much of your presentation in and then we can reconvene as soon as the vote's over. Could you introduce yourself to the committee and for Hansard.

Dr Roger Rickwood: Good afternoon. I'm Dr Roger Rickwood. I'm chair of the Federal Employers Transportation and Communications Organization, and with me is Madeleine Meilleur, the manager of WCB liaison with Canada Post Corp. We're both based in Ottawa.

Good afternoon, Chairman and members of the committee. The federally regulated transportation organization, FETCO, is pleased to appear before you this afternoon to support the Bill 15 amendments to the Workers' Compensation Act and Occupational Health and Safety Act.

FETCO represents 19 major transportation and communication firms across Canada; that is, Canadian Pacific, Canadian National, Bell Canada, Canadian Airlines International, the CBC, the Canadian Trucking Association and Canada Post Corp.

FETCO has established a standing committee on workers' compensation matters to monitor legislative and adjudicative developments and to make constructive representations to responsible decision-makers such as yourselves. FETCO firms are mainly members of schedule 2, but some of our subsidiaries are located in schedule 1 in Ontario. Some of our members are treated as if they were members of schedule 2 but in fact fall under the provisions of the federal Government Employees Compensation Act, GECA, whereby Labour Canada contracts with the WCBs for adjudication and administration of claims by injured workers in the public service and crown corporations. Canada Post Corp and the CBC fall into that category.

FETCO has been a strong and continuous supporter of WCB reform in Ontario, as the current Ontario system is not financially sustainable and is fractured by conflicting

lines of accountability. Past failure to institute strong corrective measures has compromised Ontario industries' ability to compete in the North American marketplace. We understand that many of these corrective measures will be canvassed in the phase 2 review to be undertaken by the Honourable Cam Jackson, minister responsible for workers' compensation reform. These measures are the appeal, adjudication, restructuring, ban on chronic stress, benefit adjustments and assessment rate reductions. FETCO will make appropriate submissions on these matters at that time. Some of the necessary corrective measures, however, have been incorporated by the Minister of Labour, the Honourable Elizabeth Witmer, into Bill 15, and we would like to speak to them today.

With regard to the purpose clause, the list of the purposes is the same as in Bill 165, passed by the previous government. However, there are two new objectives: "To prevent or reduce the occurrence of injuries and occupational diseases at work," and, "To promote health and safety in workplaces." Although FETCO firms fall under federal health and safety jurisdiction, FETCO supports the broadening of the act to include these matters, as the current provincial jurisdiction needs to be more legislatively integrated if it is to be effective.

FETCO also submits that the purpose clause applies equally to the Workers' Compensation Appeals Tribunal, WCAT, as to the Workers' Compensation Board. If this is not the intention of the Legislature, FETCO submits that it should be the case. The requirement that the WCB board of directors act in a financially responsible and accountable manner is now found in subsection 58(2) of the act by virtue of section 7 of Bill 15. We believe this kind of financially accountable statement should also apply to WCAT, and we're a bit concerned that, by making an inclusion and by repealing a section, people understand that this clearly does apply to WCAT.

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The governance structure: Because of the financial crisis at the WCB and the breakdown of the bipartisan governing process under Bill 165, FETCO supports the emergency governance amendments of Bill 15, allowing a WCB president appointed by the Lieutenant Governor to exercise the powers and duties of the WCB board, chair and president until a multi-stakeholder board of directors is in place. FETCO recognizes the complexity of finding just the right person to discharge these duties and hopes the government can recruit a qualified person, whether he or she, before the end of 1995. In the meantime, FETCO will fully cooperate with the interim WCB president, Mr Ken Copeland.

FETCO supports the composition of the new WCB board of directors as set out in Bill 15 at subsections 6(2) and 9(1) and (2). The new board would consist of a chair, president and three to seven other members who are representative of workers, employers and others, as the Lieutenant Governor considers appropriate. FETCO does not have strong views on just what professional backgrounds the others should have, except that they should be persons qualified with good governance skills and experience, with a strong sense of the public interest and

with no conflicts of interest. As for the employer members, FETCO submits that at least one member be either from or have significant knowledge of the schedule 2 deposit account community. We don't want all the members just to come from or have knowledge of schedule 1.

FETCO recognizes that the positions of partisan vice-chairs are no longer serving a useful purpose, but it is not certain that a functional vice-chair to oversee the complex area of occupational disease policy development is not in order. This is, however, a matter that should be more properly reviewed by Minister Jackson, and we will take up the matter there.

FETCO notes that, by the new Bill 15 configuration of the WCB board of directors, the chair of the WCAT will no longer be a non-voting member. The presence of the WCAT chair on the WCB board probably served a useful purpose in the mid-1980s in facilitating coordination between the newly organized corporate board and the nascent tribunal, but this presence has come to be seen by the employer community as an impediment to full review of controversial WCAT decisions by the board. Accordingly, FETCO sees deletion of the WCAT chair as a step towards a more searching WCB review of WCAT decisions. The future of WCAT as an independent agency external to the WCB will be canvassed by Minister Jackson, and FETCO will be able to give him the benefit of our experience with more streamlined appeal procedures in other provincial jurisdictions such as New Brunswick and Alberta.

With respect to policy directions from the minister, the statutory power of a minister to give direction to a WCB is a very rare institutional arrangement in Canada, with its long tradition of corporate autonomy. Our one experience with such a device has been in Saskatchewan, where the Minister of Labour may give direction on a new matter not previously determined by the WCB. The previous government imported this device into Ontario as a temporary measure. The present government plans to continue it, presumably as an emergency power to facilitate a fundamental re-engineering of the WCB in the face of unwarranted resistance or bureaucratic impasse. FETCO has confidence in the Minister of Labour to use this power sparingly, but submits the provision should continue to be time-limited by a predetermined expiry date, eg, two years. A newly revitalized board of directors, committed to financial sustainability and management culture change, as contemplated by the minister, will make the use of this provision, however, largely theoretical.

I will turn to my colleague Madeleine Meilleur to handle the rest of the presentation.

Ms Madeleine Meilleur: Value-for-money audit, section 16 of Bill 15: FETCO endorses the proposed amendment in Bill 15 to require the WCB board of directors to review at least one board program annually for its cost, efficiency and effectiveness under the direction of the Provincial Auditor. FETCO agrees that the Minister of Labour should have the power to choose which program gets the value-for-money audit. FETCO acknowledges that the WCB has done value-for-money

audits before, but applauds the government's determination to make it a regular and consistent practice.

Dr Rickwood: Bill 15 requires the WCB and the minister to enter into a memorandum of understanding every five years, in terms directed by the minister. The MOU will require a strategic plan for the next five years, an annual statement setting out proposed priorities for administering the act and regulations, and an annual statement of investment policies and goals. FETCO supports these MOU requirements as a means to impose strict, businesslike discipline on the board's management and to prevent internal negotiations dragging on for years between MOL officials and various factions within the board.

Ms Meilleur: Fraud prevention: FETCO strongly supports the anti-fraud provisions contained in Bill 15, which the Minister of Labour hopes will counteract current losses estimated at over \$150 million a year. FETCO has promoted such provisions for years but the reception, prior to this government's initiative, was at best lukewarm, if not arctic cold, at the ministry and the board.

FETCO believes the compulsory employer registration provision within 10 days will be strictly enforced and the situation of registered employers having to cover unregistered employers will be quickly eliminated.

FETCO supports the requirement for workers or other benefits recipients to notify the board of material changes in circumstances in connection with his or her entitlement to benefits within 10 days of the material change.

Overpayment and collection of debts: FETCO supports the new provisions to recover benefit overpayments and collection of debts. These provisions bring WCB practice in line with normal business overpayment and collection practices.

Offences: FETCO notes Bill 15 introduces penalties for those who get money or benefits from the WCB by deliberately providing false and misleading information and makes it an offence for an employer not to register with the board. Abusers could thus face jail terms and stiff fines under these new rules. This would be a change from the present practice under the Criminal Code, where enforcement was infrequent because the system was lengthy, expensive and convictions rare. FETCO believes the new enforcement measures are necessary to serve as a deterrent to abuse, although resorting to them will likely be rare, due to the better management and monitoring of claims files and outreach communications.

FETCO thanks you for listening to our comments on Bill 15, and we hope we can answer any questions you may have about the presentation.

The Chair: Extraordinarily good timing, as the bells start. With the indulgence of the committee, if it meets with everyone's approval, I would like to suggest we adjourn for the vote and return to allow—

Interjection.

The Chair: Oh, there is no vote. Okay, so much for that. We can proceed with questions now. It was a false alarm. This time it would be Mr Duncan, the opposition parties.

Mr Duncan: In terms of the governance structure, you've presented a case around your support of what the government hopes to achieve. Would you support amendments that further refine the bill to read that the number of representatives from labour and management in their totality be equal inside of the multi-stakeholder model?

Dr Rickwood: I think the government has crafted a very useful number of people here on the board of directors. I could see there being two employers and two employee representatives on the board of directors, but with three other representatives. What this will force the—

Mr Duncan: Well, it's between three and seven.

Dr Rickwood: There's a seven-person board and two extra members; it could be nine members in total. That's my understanding of it.

Mr Duncan: That's correct, so between three and seven appointments over and above the chairman and the president.

Dr Rickwood: We see the full seven being appointed: two employees, two employers, plus three other members.

Mr Duncan: So then you would support an amendment saying two and two?

Dr Rickwood: With the balance being controlled by these three other members.

Mr Duncan: But a multi-stakeholder model envisions that. All I'm saying is that under the present circumstance, you could have a situation where you could appoint one employee representative and six employer representatives and still be acting within the confines of the act. What I am suggesting is, would you agree with a refinement to that that would say the number of employee and employer representatives must be equal?

Dr Rickwood: I think two is adequate to accomplish the purposes of the act. There's a question of balance here. You have to have at least two employers or employees to be present, because it could be a situation where none would be at the table, and yet they're subject to the impact of regulations and decisions being made. So there has to be provision so that one can always be there.

The next thing is, I think that by having only four and three others, it means the employers and the worker members have got to cooperate together to make sure that things are done right. They're being compelled to negotiate and work together so that the power doesn't fall into the hands of the other independent public interest members.

1800

Mr Duncan: One other question, if I might: Over the years, various employer groups, and it depends again on the government that's in power, but employer groups in the past have had a real concern with the minister having a direct ability to influence the day-to-day workings of the WCB. I'm really curious about the business community's present-day support for this, in light of the business community's concerns in the past about government interference with the operations of the board.

Dr Rickwood: I think the concern in the past was hidden interference. We didn't know when it was happen-

ing but we did know it was happening. The structure, by having the minister give direction to the board, makes it an open-ended process so that we're aware that this direction is being offered.

We recognize that this is an unusual procedure, and we only know of one other act in the country that allows that, which is in Saskatchewan, but we think the impasse, the difficulties that we've got into in Ontario, needs some means to kickstart the process and get things moving along. Therefore we're prepared to have the minister perform this function at this time, and we have confidence in the minister to act in a credible manner.

The Chair: With that, I'm concerned that we get our last deputation in today. I appreciate very much the specifics you've brought to us, Doctor, and Madame Meilleur. Thank you for taking the time from your council duties to come down to us today. We appreciate the comments you've brought.

Dr Rickwood: We appreciate the opportunity to be down here out of the snow and into the beautiful rainy weather of Toronto.

Ms Meilleur: And back in the storm.

The Chair: Hope the roads were well cleared.

ONTARIO PUBLIC SERVICE EMPLOYEES UNION

The Chair: Our last presenters today are the Ontario Public Service Employees Union. We certainly apologize for the slight delay in having you come forward and I appreciate the committee's indulgence.

Ms Diana Clarke: And it's just raining now.

We welcome the opportunity to address the committee, frankly on pretty short notice, so we have provided you with a brief of basically the summary of what we feel is our position around Bill 15.

Earlier this fall, the Minister of Labour requested by letter submissions from employers and workers and other interested groups around certain issues. It's with great interest to us that the board only chose to address the dismantling of the bipartite board of directors and the financial viability areas. We're making the assumption that a lot of these bigger issues—and we believe these are huge issues—should have been left with the Workers' Compensation Secretariat as now established to look at these issues.

From OPSEU's perspective, the bill does very little in improving service delivery in the workers' compensation system for workplace parties and other service providers. In lieu of the current work of the Workers' Compensation Secretariat, it would appear to be unnecessary and cumbersome legislation in a time when the whole system is being studied.

It is our intention to focus on four significant areas proposed in Bill 15: the financial viability; governance; offences and penalties; and overpayments.

With respect to financial viability, the government has expressed an interest in improving the financial viability of the board and proposed several sections of the bill to address the question. However, we believe that the financial concerns at the board have rested with the chronic underassessment set each year to employers since 1984 and the lack of assessment collections from

employers. There are significant financial concerns about income collection from employers and reallocation of revenues to employers.

Some significant figures, and I'm sure you've heard some of them earlier, are: In 1994, the board paid out \$280 million more in unplanned rebates back to employers than it imposed in penalties. There were 55,000 employers owing about \$400 million in unpaid assessments and penalties, and as many as 20,000 employers have not legally registered their businesses with the board and thus are not contributing to the accident fund at all.

Average assessments for employers are continuing to decline, and yet the board in 1994 showed a \$130-million operating surplus, for the first time in 14 years. This improvement is well before what was predicted in the board's original 20-year financial plan, put out in 1985. Frankly, the board's in a better position than what was predicted.

The board's funding ratio has improved to 37.4% in 1994 from 31.8% in 1985. Compared to private insurance schemes, that's a pretty healthy margin, and in the next few years the ratio is expected to really increase on a steady basis.

What we want to note here is it means that if you put all your moneys in reserve to pay for everything in future, there's not as much money left to use for business purposes. The reserve is there and you've still got \$6 billion and we're showing an operating surplus. The board's in a better position than it's ever been before.

The current legislation gives the board significant power to collect outstanding employers' debts to the system, yet the board has not focused its energy on these collections. The government has declared that it's open for business. However, good business practices dictate that any business meet its legal requirements. If bad employers are not paying their share, deal with it appropriately and responsibly.

As to other sections of the bill with respect to financial viability, the proposed amendments have little impact.

Section 1: Well, since as far as we're concerned it's already dictated to the board of directors to show responsibility to do with financial viability, it doesn't seem appropriate to put it in the purpose clause as well. The purpose clause in the current act does nothing to change, improve, address further, financial accountability. Basically, any purpose clause is to address the purpose of the legislation and not the method for implementing it or administering it.

Section 13, with respect to the memorandum of understanding clause, will require the board to enter into a new agreement with the Minister of Labour every five years and shall contain "only such terms as may be" dictated "by the minister." The board is responsible for the day-to-day operations of the Workers' Compensation Board. The Workers' Compensation Act sets out the memorandum of understanding for the board to administer the system and benefits and services entitlement. By changing it, you're establishing unprecedented political control over a government agency.

Section 16, to do with the value-for-money audits amendment, we believe is unnecessary. The board has been conducting regular value-for-money audits on several different programs for years, with emphasis particularly on new programming. Why is it necessary to place in the act the need to conduct one audit of one program a year as determined by the government each year? The selection of one program audit a year, as ordered by the government, appears to be due to political pressure and not necessarily a true value. If the board of directors is responsible for the financial and administrative activities of the Workers' Compensation Board, we would submit that the board be allowed to do its job, working with workplace parties and in consultation with government.

In fact, we would probably submit that the secretariat is doing the largest value-for-money audit right now, which is the entire program. So why would you need to only have one a year? You might have more. Why build it into legislation?

Governance: Financially, as well as from an administrative point of view, the board was improving under the joint governance model. Strong emphasis has been put on early return-to-work efforts, better and workable policy development, financial review and preventive occupational health and safety initiatives.

This government did announce that it had established a WCB secretariat to review the entire system by next year. In the meantime, the bipartite board of directors was to continue to perform its duties with its responsibility and accountability. Instead of waiting for the outcome of the WCB secretariat's report, which should have included the review of the merits of the current governance model, it chose to fire the existing board before the passage of this bill and replace it with an interim board structure again.

As noted under the financial viability section, the board has continued to improve financially in spite of collection problems under the interim and bipartite board of directors in the past three years.

What the workers' compensation system required was stability during this time of rapid board changes under Bill 165 and external review, and not an interim board structure with appointments of people not experienced in the workers' compensation system.

With respect to offences and penalties, we just believe that section 27 will not work. It's an administrative nightmare and redirects the efforts of the board staff from administering the benefits and services that the board offers, to becoming assessment and benefit cops. This system is already burdened with a very complicated workers' compensation legislation.

1810

All workers, employers, representatives and service providers will be subject to possible prosecutions for each offence, up to \$25,000 and possibly up to six months in jail, if they know and do not inform the board of a possible material change in circumstances and/or knowingly make a false or misleading statement or representation which might affect benefits within 10 days.

Frankly, what is a material change?

Secondly, it's very difficult to prove that the individual or corporation charged knowingly made the statements. Beyond evidence concerns, this is a very high legal test and thus the board would have to prove such a high legal standard. It would be easier simply to proceed to a fraud charge under the existing Criminal Code as it stands today. The board's current policy on fraud is sufficient to cover the extreme circumstances of fraud situations.

How does anyone inform the board of a material change in circumstances? Frequently the board is difficult to reach, and even if you fax something to the board today, it would take 10 days before it got to someone to look at it, rather than to acknowledge that they even received it. There are many people, both employers and workers, who call and it takes three weeks for them to contact someone at the board to even acknowledge the phone call.

Perhaps the most significant negative feature of this section is that it makes the system even more litigious. Every representative, corporation and service provider will have to take out liability insurance to protect themselves from possible court actions. Workplace parties will be very wary of dealing with board officials and each other. This only further burdens communication problems and it will slow down the adjudication and return-to-work efforts.

The act already contains a number of offence sections which have never been fully used because they are not efficient. They were unenforceable and, if attempted to be enforced, only put a heavy burden on the provincial courts, which can't handle what they've got now.

The board also has expended further costs in administering this system, and yet the return of investment is very poor. It's our position that basically you're going to put a lot more staff in to spend a lot more time policing the system. If you look at the types of costs we're looking at, for instance, the total amount of temporary total benefits that were paid to workers last year, the weekly amount, was \$217 million, somewhere around there in the annual report, and yet employers got more in rebates than the workers ever received in weekly benefits last year. All this effort, and for what?

We would submit that the better use of the board's resources would be to direct its efforts to the collection of outstanding employers' penalties and assessments and improving service delivery to workplace parties.

Thus, we recommend the deletion of that section in the bill.

With respect to overpayments, the board already cuts off workers' benefits immediately if it believes the worker owes an overpayment and will take action to collect first from the worker's other WCB entitlements if the worker does not dispute the overpayment creation. Collection of outstanding debts follows any other government agency or civil law system, as it stands now. What this section does introduce is an unnecessary and cumbersome clause and condition to an overpayment process that is working now. By adding this section, it would only make it more cumbersome.

So we recommend the deletion of sections 3 and 14.

In conclusion, we believe that the introduction of any bill was too premature and should have waited for the outcome of the WCB secretariat's recommendations. We are greatly concerned at the way the government is proceeding on this bill.

It is our position that in light of the cancellation of the Royal Commission on Workers' Compensation and the mandate of the WCB secretariat, the bill should be withdrawn at this time.

Our workers want real input into any proposed changes to the workers' compensation system and want the right to public hearings before the WCB secretariat. The government has kept the secretariat's intent and work behind closed doors. Injured workers want the right to real input to a system that was set up to allow full benefits and services to injured workers in exchange for giving up their litigation rights.

The Chair: Thank you, Ms Clarke. The first question goes to the third party.

Mr Christopherson: Thank you for your presentation. I'd like to focus on your section dealing with financial viability. Both employee and employer representatives here today have spent a great deal of time talking about this, and I've asked other groups the same question.

The government, at the same time that it's making financial viability a cornerstone of its rhetoric, is also proposing a 5% cut in the assessment rates that employers pay. For some of us, we have some difficulty finding the common sense in that. Can I ask what your thoughts are as to the appropriateness of a 5% cut in assessment rates. If you're not satisfied that this is where they ought to be looking, what would you make the priority in terms of financial viability?

Ms Clarke: With respect to the 5% cut in assessment rates, if you look at how assessment rates are determined, you look at what costs are going to have to be put out during that year, including your legislated costs, which is the Office of the Worker Advisor, WCAT, all those different costs, you look at what it costs to administer the act and actually the financial amount of money that you have to pay out to administer the act, everything that you have to pay out. That's how the assessment rates are normally set, and then they just take a look across the board and they figure out according to class how much you're supposed to pay.

If you cut at 5%—if you set your assessment rates on what you have to pay out, why would you cut them 5%? Then you're only putting yourself at 5% more debt. I don't understand that logic—

Mr Christopherson: We don't either.

Ms Clarke: —if you really, really look at the assessment. I'm going to say too that many employers in this province received a 300% increase, and 5% is not going to satisfy those employers. Those were employers who often had very, very high accident rates and they were the ones who have been pushing for this decrease in amount.

In fact our position is that what you do is, you pay for what the debt is. Now, the debt is going down and the

cutbacks that took place with respect to Bill 165 and other initiatives are going to bring it down a lot more. What you're finding is that every year from now on, the board will make more and more money, and it already has \$6 billion sitting there if it needs to call on it. Why would you cut 5%? I don't think that's financially viable and I don't think it's financially responsible. So my priority isn't that; my priority would be to endorse good health and safety, to endorse good return-to-work practices for both parties and ask them to participate.

Thirdly, for the people who should have paid the bill all the way along, because the bad employers are the one that hold it up for the good employers, they should pay the debt, like they should have all the way along.

The Chair: Do you have a supplementary?

Mr Christopherson: Yes. Thank you for the opportunity. Also a lot of discussion around the governance model, and we've heard—I wish I'd had a chance to ask one of the other presenters a question because they talked about it—the new legislation will force employers and employee representatives to work together and to find compromise and to work their way through problems. I would have thought that was the best argument there was for a bipartite board. Perhaps you can give us your views on the potential effectiveness of a bipartite board and also what it means for workers when they have their numbers reduced to what Bill 15 proposes.

Ms Clarke: What I'm surprised at, frankly, is that the board has been bipartite and operating as a bipartite board for the last three years, and the return-to-work policies in particular that came out and the efforts around Bill 165 to get workers back to work and to work out compromises at the workplaces are happening right now. A lot of the financial improvement packages were agreed to by both sides and were seen as necessary to stabilize what was going on out there.

I don't understand the need to remove the bipartite board when it actually was doing what it was supposed to do, and had done for three years. I think people should realize that in fact it was functioning and it was working in consultation with the government in trying to move the board further and forward, because a lot of what the board is about is policy setting, and that's where it happens. It happens on how you get people back to work fast so the costs go down for everybody and that people are working as fast as they can. Only 5% of workers who claim comp are on comp a year later. In fact, 80% or more are off workers' compensation within three months of a claim, and that's all costs. To me, it was doing its job.

Mrs Barbara Fisher (Bruce): I do, first of all, agree with many of the comments you've made in your presentation today in that you have taken into consideration some of the same concerns and weaknesses within the system that we have also been sharing. However, some of our intent is obviously to move ahead to help with those areas the weaknesses exist in.

One of the things that you do address in here relates to offences and penalties. Our concern is that there continues to be, from whatever perspective you might share, either an offence because the employer is not paying the

premiums or an offence by a worker who's maybe not claiming as should be done. How would you do it?

Ms Clarke: How would I do it?

Mrs Fisher: Yes.

Ms Clarke: I've been practising workers' compensation for 17 years, so this isn't new to me. I think the problem with offences as drafted out now in terms of employers is that the idea was that we were supposed to have a no-litigation system. It was supposed to be, you paid and then benefits were paid, and there was a third group, a board, that administrated it fairly. That was the way it was supposed to be done.

If you're going to ask employers who are already not paying, or violating the act as it is, the board could simply collect off them now, and should have a long time ago. Now we're also hitting them for up to \$25,000 each time. We can't even get them to pay the debts that they owe. I hate to say this, but this is a really unnecessary additional burden into the system that isn't needed to be there.

For service providers, I find it surprising that doctors and all the medical care—they rely heavily on the board, so why would they suddenly try and rip the board off? I hate to say this, but the board will cut you off, and it doesn't pay for the services until after the services are completed. So in a sense, the offences don't really work.

As to workers, the board has a very aggressive overpayment policy now. It basically says that if they declare an overpayment, you have to challenge the merit of that overpayment if you disagree with it. If not, the board immediately assumes to collect money where it can from the existing benefits that you have. Secondly, if they can't, they go like any other collection agency and say, "What can we do to work out a reasonable overpayment that doesn't put the person into bankruptcy?" They do that now, and if there really were a large amount, they would go to the courts, sue and pick it up like anyone else.

The offences only add another layer to what's there already. To me, I wouldn't add anything, because all you've got to do is implement what you have. They do it very well and they've been very aggressive in the last year.

Mrs Fisher: I guess the question would be then, it seems to us like that's been in place, bipartite's been in place; it's not recovering what you're saying. The increase in accidents—the NDP was encouraging us to keep the Workplace Health and Safety Agency. What happens is, numbers go up. We're trying to correct the system. So I'm not saying that we're too far apart in terms of critiquing the system in where it's not working. I'm suggesting, however, the proposals we have before us are a new approach on how we can make it happen. Would you comment on that?

Ms Clarke: I don't think it would make a difference. I think a lot of times the board has been quite frankly intimidated by employers' lobbies and very intimidated by the process in the sense that if you went after an employer, the employer would cry foul and the board would back off. I've seen it again and again and again where they don't pay. A lot of employers just simply shut down and open up under another number. So my problem is, how do you deal with that situation? It's not going to be one that you can easily answer by saying that this is going to do it, because this isn't going to do it; what does it get aggressive about collecting what you've got. If you could get that, we'd be well into correcting the system that we now have. Unfortunately, in the last 10 years people have been really soft on it to try and deal with it.

The Chair: Thank you, Ms Clarke. I appreciate your patience and the committee's patience. Thank you for your indulgence on this, our first day of hearings. If there's nothing else for the committee, we stand adjourned until 3:30, December 4.

The committee adjourned at 1823.

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
RESOURCES DEVELOPMENTCOMITÉ PERMANENT DU
DÉVELOPPEMENT DES RESSOURCES

Monday 4 December 1995

Lundi 4 décembre 1995

The committee met at 1007 in committee room 1.

SUBCOMMITTEE REPORT

The Chair (Mr Steve Gilchrist): I call the meeting to order. We will now proceed. Our first order of business is to approve the subcommittee report.

Mr Dwight Duncan (Windsor-Walkerville): I'll move it.

The Chair: Moved. Seconded by?

Mr John R. Baird (Nepean): Yes.

The Chair: All in favour? Carried. That approves the sitting times that allow us to now hear from our first deputants.

WORKERS' COMPENSATION
AND OCCUPATIONAL HEALTH AND SAFETY
AMENDMENT ACT, 1995LOI DE 1995 MODIFIANT LA LOI
SUR LES ACCIDENTS DU TRAVAIL
ET LA LOI SUR LA SANTÉ
ET LA SÉCURITÉ AU TRAVAIL

Consideration of Bill 15, An Act to amend the Workers' Compensation Act and the Occupational Health and Safety Act / Projet de loi 15, Loi modifiant la Loi sur les accidents du travail et la Loi sur la santé et la sécurité au travail.

UNITED STEELWORKERS OF AMERICA
LOCAL 9042 AND PEEL-HALTON AREA COUNCIL

The Chair: Good morning. My apologies to the United Steelworkers of America, Local 9042 and Peel-Halton Area Council. Is Mr Collie here? Good morning, Mr Collie, my apologies for the delay. We have a copy of your submission, thank you, and just a reminder, as we will be reminding all the groups today, that we're under a time constraint and we will be cutting off any discussions or questions and answers at 15 minutes. You're free to take as much time for your presentation as you wish or to allow it for questions and answers.

Mr Ron Collie: I'm here representing the Peel-Halton area Steelworkers. We represent approximately 5,000 members in the Peel-Halton area, and I'd just like to make a submission to the committee based on our concerns with Bill 15.

On November 1 of this year, the government gave first reading to Bill 15, an act which, in effect, gets rid of the bipartite board of directors at the Workers' Compensation Board and basically criminalizes the workers' compensation system.

This bill, from what we can see, is strictly an ideological way of the way this government views working people. Bill 15 does absolutely nothing to improve the

financial situation of the WCB or the services provided to injured workers or employers. It is little more than a move to create a crisis in the workers' compensation system so the government can justify cutting benefits for injured workers this coming spring.

The government will replace the bipartite board of directors with a multi-stakeholder board, even though it was a multi-stakeholder board which drove the compensation system to its lowest funding position ever in the early 1980s. In fact, in 1985 the WCB had on hand only 31.8% of the money it owed to injured workers. Today it has more than 37% of that money.

The bipartite board of directors gave workers an equal say in how the board was run. In fact, the bipartite board had made some incredible progress, bringing new claims costs down dramatically, reducing the board's overhead and returning more disabled injured workers to the workplace than ever before. It enjoyed its first operating surplus in 10 years and reduced the unfunded liability for the first time in its history, and the working members of the WCB board of directors endorsed an internal financial reform package which would have paid off the unfunded liability by the year 2014.

Although the bipartite structure may at times not work, it has been proven by the health and safety agency, where over 300 decisions were reached using a bipartite structure and only once did an issue ever go to a vote.

We believe that the way a bipartite structure can work is when there is a neutral third party who is a good strong facilitator who can bring the parties to a consensus in times of deadlock.

The main reason for a bipartite structure is that it is fair. In the workers' compensation system, there are only two true stakeholders, the workers and the employers, and only those two groups should be on a board of directors.

So the question is, why fire the bipartite board? The Minister of Labour has fired a board of directors that has made tremendous progress. She probably doesn't know about the board's progress. The Common Sense Revolution made a commitment in 1994 and she's going to carry it out whether it makes sense or not: once again an ideological move, just as it was when she fired the bipartite board of the Workplace Health and Safety Agency.

I don't think this government believes in giving workers an equal share of the responsibility, yet it is workers who suffer the carnage of workplace accidents. Neither will give the Workers' Compensation Board over to the employer community. Presumably it will have more Conservatives on the WCB and the unfunded

liability will again resume its climb at the expense of workers, because, although they criticize the unfunded liability in public, privately I believe employers enjoy their ability to offload their current liabilities to future employers.

In August 1995, the minister wrote a letter describing her government's proposals for WCB change. Basically, she described the WCB components of the Common Sense Revolution. Only about half of the changes proposed in her letter ended up in Bill 15. The other items, however, are gone but not forgotten, and I suppose we'll have to wait until the spring to find out what other havoc this government is going to wreak on workers in this province.

The second reason for Bill 15 that we can see is the government's contention that the WCB is being defrauded by injured workers in this province. From my own experience in dealing with workers' claims that resulted in overpayments, the overpayments were either reimbursed to the board or the overpayment decision was reversed. All the overpayments were created due to errors by board staff. None were because workers deliberately tried to defraud the board.

Again this government is creating a crisis in an attempt to mask the real fraud and abuse at the WCB, that being the fraud perpetrated by employers. The following is a short list of some of the financial facts that I believe this government should look at.

First of all, there are more than 55,000 employers who owe the WCB \$430 million in outstanding assessments and penalties.

The NEER and CAD-7 programs were originally intended to promote workplace health and safety. However, these programs have loopholes which have been manipulated by employers to such an extent that they drain the WCB of more than \$200 million annually.

The second injury and enhancement fund is another program being constantly abused. In over 90% of the workers' claims I handle, I see employers applying for relief under the second injury and enhancement fund, and in the majority of claims, the reasons behind the applications are frivolous and have no factual evidence. There is simply a supposition that something must be prolonging the claim, and in a great number of cases the board automatically grants 50% relief.

In 1994, more money was paid out in NEER rebates to employers than was paid to injured workers in short-term disability claims. In that year, \$337 million was paid to workers in short-term disability claims while employers received \$359 million in rebates.

There are an estimated 20,000 employers who legally should be registered with the WCB and contributing to the system who continue to go undetected.

Some 700,000 Ontario workers are denied WCB coverage because their employers have been successful in lobbying governments to exempt them from the system.

It is a fact that employer WCB premiums have steadily declined from a target of \$3.34 per \$100 of payroll in 1993 to \$3 per \$100 in 1995.

Now, with regard to possible future privatization of the WCB, the WCB spends approximately 17% of its expenses on overhead, while a private insurance company like Sun Life of Canada spends over 30%. This is a big difference in administrative costs.

Given the dramatic turnaround in the board's financial situation and the hundreds of millions of dollars being sucked from the system through employer fraud and abuse, how can this government justify its drive in this bill to fire a board of directors that was working and replace it with a multi-stakeholder board that has been proven in the past not to work, and to create the impression that injured workers in this province are nothing but a bunch of criminals?

To sum up, this bill is just another attempt by this government to attack the most vulnerable members of society in this province so as to pay back the employee contributors for the financial support received during the recent election campaign. There is no justification for what this bill does to the board and the act.

The board is in the best financial position it has ever been in, with \$6.8 billion in the bank. It is nearly twice as efficient as private insurance companies. It is enjoying an operating surplus. Employer premiums have decreased dramatically. Hundreds of millions of dollars in employee abuse and fraud could be ended simply. Overhead costs have been slashed, and the implementation of internal financial reforms could eliminate the unfunded liability. The bipartite board of directors had the financial situation at the board in hand and was beginning to turn the ship around. This could not be done overnight by the bipartite board and will not be done overnight by this government and a multi-stakeholder board. To blame injured workers for the board's financial problems is the government's way of hiding from the public the true criminals of this province, that being those employers who are defrauding and abusing the workers' compensation system.

There's one important history lesson that needs to be remembered here: Injured workers in this province gave up the right to sue their employers for workplace injuries in order to get a fair compensation system that does not treat them like criminals. By giving up this right, many smaller businesses may have been saved from possible financial ruin.

I think this government should reconsider the path it is following before workers and organized labour are forced into actions that would be detrimental to labour relations in this province.

The Chair: Thank you, Mr Collie. Questioning will begin with the opposition.

Mr Duncan: I noted you were talking about the performance of private insurers versus publicly owned insurers. I guess you're concerned that the government is going to eventually try to privatize the Workers' Compensation Board. I wonder if you'd take a moment to elaborate on your findings. I found them very interesting. You were talking about overhead costs and so forth.

Mr Collie: There have been studies done by the Ontario Federation of Labour which have looked at administrative costs of the board and also of private

insurance companies like the one I mentioned, Sun Life, and the administrative costs seem to be greater for private insurance companies.

Another thing that needs to be remembered is that private insurance companies, their sole interest is based on profit, while a publicly run Workers' Compensation Board, its interest should be in compensating workers for their injuries. I don't believe private insurers would have that same interest in mind.

Mr Duncan: You noted some of your concerns about the offences sections of the bill. The offences sections, as you know, deal both with employers and employees in separate parts, and in your text you advocate not going forward with all of the offences sections, all of part V of the bill?

Mr Collie: I think the act as it is right now has sufficient provisions for offences. I don't think there's any need for changes.

Mr Duncan: Either on the employer or employee side?

Mr Collie: Yes, both.

Mr Duncan: So you would just advocate not going forward with part V of Bill 15?

Mr Collie: That's correct.

Ms Shelley Martel (Sudbury East): Mr Collie, I want to focus a little bit on the crisis you talked about early on in your brief where you said in this case the crisis of the unfunded liability, that is, the crisis that the government is trying to promote. In relation to that, you talked about the assessment rate for employers and you have said that this has been decreasing steadily since 1991 and "the 1995 average rate is at 1988 levels." Given that assessment rate and given the state of the unfunded liability right now and the crisis the government is trying to promote, what do you think about the government's action to decrease employers' assessment rates by another 5%?

Mr Collie: I believe that it's only going to add to the board's costs, in particular if you take into account the possible decrease in workers' benefits by 5%. Decreasing the employers' assessment by 5% I believe will only add to the costs at the WCB board.

Ms Martel: So how serious do you think the crisis is that the government is claiming is behind this bill?

Mr Collie: I don't think it's as serious as they're claiming. The unfunded liability is not—it is, in a sense, a dollar figure, but it's based on payments that the board has to make over the next how many years, I don't know. There's lifetime pensions taken into account as well. I don't think it's a crisis in as great a proportion as the government has created.

1020

Ms Martel: Do you think the fact that for the first time under the bipartite board the unfunded liability actually came down would have been reason enough to believe that the folks who were doing the work that they were supposed to, and had they been allowed to continue, would have gotten the situation under control?

Mr Collie: Yes. I believe in the bipartite system. I believe it's fair and, like I said, there's two true stakeholders at the board, that being employers and workers, and those are the ones who should be on a board of directors.

The Chair: We have time for one quick question from the government side.

Mr Bart Maves (Niagara Falls): I'll try to be quick. You were talking about fraud by injured workers and said that in your experience it never happens, and when there's problems it's usually WCB's fault because of poor paperwork and so on and so forth. You then went on with a long list of fraud by employees and employers who are skipping out and not paying premiums that they should be paying to the WCB system. Then your conclusion is that the current board works, and I'm kind of puzzled by that.

Mr Collie: I think the act works, or it should work if it was implemented properly. There are provisions in the act whereby employers can be fined and whereby workers can be fined, and I believe that if the act was administered properly it would work for both workers and employers and covering penalties as well.

Mr Maves: It's not being administered properly now then?

Mr Collie: I don't believe so.

Mr Maves: But you're in favour of maintaining the current board?

Mr Collie: I believe in maintaining the current board of directors and I believe in maintaining the current act, but I believe it should be administered more fairly.

The Chair: Thank you very much, Mr Collie. I appreciate you taking the time to come before us and appreciate your very detailed submission as well.

DURHAM REGION LABOUR COUNCIL

The Chair: Our next group up will be the Durham Region Labour Council, Tim Eye. Good morning. Again, just a reminder that we're under a time constraint here today to try to get all 72 groups in during the two days, so we'll be limiting discussion.

Mr Tim Eye: Well, I understand that this government does have a mandate to rush things through and sometimes, in my opinion, I believe in haste there's waste.

My name's Tim Eye and I'm president of the labour council in the region of Durham. I represent 51 local unions whose approximate population is about 40,000 unionized workers. I would like to bring to your attention that due to the short notice I was not able to prepare a presentation. However, I do have some notes from the federation of labour and the CAW national union; I am a member of both.

I would like to restrain my comments to the fact that presently there are 55,000 employers that currently owe around \$400 million in unpaid assessments and penalties, and as many as 20,000 employers across Ontario haven't even bothered to register with the WCB in spite of their legal obligation to do so. I'd also like to point out that in its report to the royal commission, the office of the worker adviser estimated that the WCB can save money

or increase revenues by \$500 million without any reduction in benefits to injured workers.

I would also like to make a notation that I am an injured worker. I've been hauled out of the General Motors assembly plants twice on stretchers and I'm left with a permanent disability. I can't even play catch with my son or my daughter. So I speak from personal experience, and if you want to ask some questions later and have some comments as to a little history of how I got involved in the trade union movement, I'd be happy to discuss it.

The WCB system is not in crisis. The unfunded liability is not a debt. The unfunded liability represents the present cost of future payments owed to injured workers by their employers for present claims. The WCB is not bankrupt; it has more than \$6 billion in assets. In fact, in the past employers have opposed a fully funded system on the basis that they did not want a fund of billions of dollars in the control of the board, but instead wanted access to that money for current investment under their own control. Now they complain about a crisis and this government is using this false understanding of the financing of the compensation system to attack workers by reducing their benefits.

The purpose clause, section 0.1 amending the act: labour's position is there's no need for further financial accountability language in the act. The present language is adequate and it should be enforced and thus this change should be opposed. The focus of the act should be on providing benefits and services for injured workers, and money should be saved by means of worker-employer cooperation on health and safety and return-to-work programs. Proactive health and safety committees work.

I would refer you to a submission that I made on Bill 165, through the Hansard. In there, I referred to the health and safety committees in the General Motors workplace. I'm a carpenter at General Motors and we just had a massive retooling in General Motors' car plants without any lost-time accident to the skilled trades workforce in the workplace, but that's only because of vigorous and proactive health and safety committees in the plants working with the workers and the employers to make it a safe place to work. They do work if there's cooperation.

The labour position: WCB already has the tools at its disposal to deal with the small number of worker fraud cases. There is no need for a whole new set of offences targeting workers. WCB should put its resources into pursuing employers who are ripping off the system.

The new board of directors: The labour's position there is the bipartite board of directors gave workers an equal say in the governance of the Workers' Compensation Board. It recognized the primary role of the two workplace parties. It was a structure that would have allowed for solving the system's problems without reducing worker benefits or services. We should oppose the idea of a multipartite board and call for the restoration of the bipartite board, including injured worker representation.

If you want to ask somebody what it's like going through the circus of red tape that's through—in the

board policy and how it's enacted from a worker's perspective, maybe you should ask an injured worker.

Interim governance of the board: The labour position is that we should strongly opposed the dismantling of the bipartite board of directors, and the position of labour in the region of Durham is such. We should also oppose the illegal firing of the board members and oppose the unprecedented use of legislation to legalize illegal acts after the fact.

Memorandum of understanding, section 13, replacing subsections 65.2(1) and (2) of the act: The labour position—we should oppose the use of a memorandum of understanding to dictate the government's agenda to the Workers' Compensation Board. It's a separate agency, set at arm's length from government, and I'm sick and tired of having to come down here and advocate on behalf of people who are getting maimed, mangled and murdered in their workplace just for the sake of one government of the day making a political football out of this issue. We should have fairness and respect to the workers whom I represent in Durham.

I demand that we should have the royal commission fully reinstated with all its participants to carry on the work that it was initially legislated to do by the previous government of Ontario so that the people of Ontario can be heard, and not just the board of trade, the chamber of commerce and labour unions. We should allow the opportunity for full public debate and disclosure on this issue. It is a very contentious issue, it is very complex and it's important that everybody get an opportunity to participate in it and to allow for three days of hearings for organizations that are used to making depositions to government. It's important that we speak to the people, that you ask the people what they think. To simply say, "Well, we have a mandate because of our election of six months ago"—when you start rifling through all the dotted i's and crossed t's and commas and parentheses in the legislation and how it actually affects them, it's insane. It isn't just. It isn't democracy. How can you call it just and democratic government when you ram something through in a matter of days or hours or less than several weeks? I just can't understand it.

The labour position on the memorandum of understanding is that we should oppose it for the very reasons I just gave. While we support ordinary audits that ensure the Workers' Compensation Board is accountable for its spending, we should oppose the idea of government-ordered, value-for-money audits. Any review of the Workers' Compensation Board should be done by bipartite review teams who will thus be accountable to the workplace parties, people who are directly involved.

1030

Part V, Offences and Penalties: labour position—we should oppose the new offences provisions. We should say the Workers' Compensation Board already has the tools to deal with fraud and should be focusing on pursuing employers who rip off the system.

As amendments to the Occupational Health and Safety Act, in addition to amending the Workers' Compensation Act, Bill 15 also proposes to amend the Occupational Health and Safety Act. Those amendments deal specifi-

cally with the government's move to disband the Workplace Health and Safety Agency. The amendments bar any litigation commenced or to be commenced challenging the government's actions in revoking the workers' health and safety agency appointments and appointing an executive director. The Ontario Federation of Labour and Paul Forder challenged the terminations in court but were unsuccessful. The court in that case based its decision primarily upon a provision in the Occupational Health and Safety Act which allowed the minister to step in and effectively take control of the operations. The courts did not address whether it is appropriate for any government to engage in a course of action and then legitimate the course of action after the fact through legislation.

Labour position is, with the firing of the Workers' Compensation board of directors, we should oppose Bill 15's attempt to retroactively legalize illegal acts. The restitution orders in section 27 adding new section 153 to the act, the amendment which specifically allows the board to pursue an order for restriction for any sum deducted by an employer for an employee's wages for compensation costs and pay the sum outlined in the order to the worker is a welcome addition to the act. This is a helpful provision for workers who have wages deducted, as in the past the board refused to pay these sums back to workers.

Labour position: This is one amendment we can support.

I would also like to point out some highlights that I picked up through the national union CAW's brief that Sister Cathy Walker and Brother Nick De Carlo of the health and safety department will be presenting. Safety is deteriorating; workers are being killed and injured. In the last number of years, workplaces across the province have been speeding up production and scheduling more and more overtime.

Mr Ouelette, I would address that you pay particular attention to this, because if you take a tour through those GM plants in Oshawa and you count heads, people who are wearing tensor bandages on their wrists, forearms and elbows, you'd know they were working in pain; and if you asked any of them, eight out of 10 of those workers would tell you they're working in pain and it's because of the increased productivity levels. General Motors has basically doubled its productivity levels in the Oshawa plants since 1995 and out of that, because of a thing called synchronism, manufacturing and the implementation of all this tooling that I was telling you about and the changeover that the construction gangs put in, the workers also have to work longer hours at a higher rate of production and their bodies cannot lubricate the joints in their musculoskeletal system fast enough to prevent the wear and tear on those bodies.

Now the business community is going to come in here and they're going to demand a limit to entitlement on repetitive strain injuries, because they see through their own internal accident rates, which used to be about one in five, then it was one in four, now it's one in three in the Oshawa car plants—I got that from the health and safety committee member in the car plant, one Brother

Paul Gogan. Please refer to him in the CAW, Local 222 for any specific information coming out of the union.

I also understand that the employer community feels that it's important that we cover the cost of this unfunded liability, but I believe that the unfunded liability is just a financial burden that employers owe to the Workers' Compensation Board to pay those benefits out to workers who've been maimed and injured and worn out in their workplace.

I also would like to bring to your attention the fact that, because proactive joint health and safety committees in the workplaces work, to deny the education and the training for those committees so they can prevent accidents in the workplace, which is a tremendous financial burden to the board—I think you will find that unforeseen chance events have been greatly reduced although the repetitive strain injury is a major issue specifically dealing with the Canadian auto workers; and General Motors, where I'm from, it is a big issue.

I would like to close my comments by thanking you for allowing me the opportunity to come in here and say what needs to be said, although I don't believe it's enough to deal with all the issues. I highlighted some of the issues I feel very strongly about and if there's anybody who has any questions, feel free to ask. Thank you.

The Chair: Thank you. We have about two, two and a half minutes; Ms Martel.

Ms Martel: I'd like to ask you to comment about the firing of the board being an illegal act. You mentioned, and I should just reinforce, that not only did that contravene legislation that was put in place under Bill 165, the bipartite board, but the government has with this legislation not only justified that firing but also said, "You can't take this to court." What do you think about a government that not only operates in contravention of a law that was passed less than about 10 months ago, but also puts into legislation right now the fact that no one can challenge that in court?

Mr Eye: I would like to bring to your attention the teachings of a carpenter of nearly 2000 years ago who preached "Love thy neighbour as thyself," and to turn your back on the worship of Mammon, okay? As far as I can see, loving thy neighbour as thyself by reducing those who are less fortunate than ourselves, who are on subsistence living, who are in bad situations, and putting them into desperate ones, and throwing tens of thousands of workers on to the unemployment rolls and to allow for room for these people to be collecting welfare benefits by reducing the benefit rate 21%, which allows for the growth of people receiving welfare—I believe the teachings of the good Lord, saying, "Love thy neighbour as thyself." I would like to remind all of you that when he went into the temple and he upset the tables of the moneychangers—and the moneychangers of those days are the predecessors of today's modern banking system.

To be a worker who has put his work out on to the free and open market, the labour market, to be exploited by those who profit from the work and the sweat of my brow is a system that has been in place for thousands of years. However, to base a government policy only on the

interests of Mammon, the worship of money and those who control it, is anti-Christian and it's anti-democratic, because when you take a look at how many people control the big financial levers in this country, it is a very small minority of people. I would remind those of you in government and in opposition that they carry very little votes even though they may influence the media and the information that is getting out in today's society. They may control the levers, but when the wheels decide to stop turning, they will stop turning.

I think it is reprehensible that a government would even consider saying, "Well, we're going to have to invoke a retroactive law because the action that we did wasn't legal and violated a pre-existing law," and thumb their noses at a system that's been in place for a couple of hundred years. I think it's insane.

The Chair: Thank you very much, Mr Eye. We're out of our time here now but I appreciate your taking the time to come and make presentations before us today.

CANADIAN AUTO WORKERS, LOCAL 1986

The Chair: Our next group up is the Canadian Auto Workers, Local 1986. Good morning, Mr Rooke. Again, I saw you in the room here, but just in the interests of fairness we're telling all the deputations we have 15 minutes per presentation and it's up to you what amount of that time you wish to take for presentation and how much for question and answer.

Mr Tom Rooke: I'd like to take the opportunity to thank you for the opportunity to be here this morning. I find it very difficult to prepare a brief on two days' notice. I was called Thursday afternoon to be here this morning at 10:30, and it's awful difficult when you're a full-time local union president and 50% of your time is spent on workers' compensation.

Also, I'd just like to bring to the government's attention that I have a WCB hearing at 10 o'clock next Monday morning. Usually we used to get the claim files six weeks in advance so you could prepare a hearing for the injured worker. I received that claim file Friday afternoon. So I'd just like to take the opportunity to thank the government for rushing this through and allowing me not to do my job properly for the injured worker I'll be representing. If there are any hiccups in that file and I have to get any information from doctors, I will not have the opportunity now.

I want to begin our presentation today by demanding the Royal Commission on Workers' Compensation be reactivated and that the Cam Jackson, minister for workers' compensation, report rumoured to be tabled December 20, 1995, be subject to public consultation and debate before it goes to the Legislature.

Bill 15, in our opinion, is the next step of the Harris government's attack on the working people of Ontario. We are demanding the bipartite board of directors be reinstated, as this board gave workers an equal say in how the board was run. In fact, the bipartite board had made some tremendous progress in bringing new claims costs down dramatically, reducing the board's overhead, and returning more disabled and injured workers to the workplace than ever before.

We just have to check last year's annual report to see that the board is not in debt and has never borrowed money. According to last year's report, the WCB has \$6 billion in savings. Employers' premiums are decreasing and now below 1989 rates. In 1993 they were \$3.34; in 1995 they're \$3. The board has paid more to employers in rebates, \$359 million, than to injured workers in short-term disability benefits, \$337 million. The WCB wrote off \$173 million in unpaid debts by employers. In spite of all this, the WCB reported a surplus of \$130 million.

1040

We just have to review what's expected in the Jackson report.

A three-day unpaid waiting period: The ludicrousness of this is outstanding. I'm out of a heavy metal stampings plant. We have 500-ton presses. If something in the presses fails, if the clutch goes and a worker's got his hand in there and that press comes down, the hand's gone. And now to expect that individual to wait three days because of malfunctioning equipment is just ludicrous. Workers go to work to earn a living. They don't go to work to be injured, and a lot of times the injuries aren't the worker's fault. It's because the employer hasn't maintained his equipment as he should.

The reduction of benefits by 5% or more: It's tough enough to live on 90% of your net, let alone another reduction. In some cases you get letters from the board stating that it's all right to wait up to 12 weeks for a new claim to be initiated, another point that is just ludicrous.

The reduction of employers' premiums by 5%: They're talking about this unfunded liability, and now they're going to give the employers another 5% back so the debt grows.

A review of lifetime pensions awarded before 1990: As you heard from the brother before you who has a permanent disability, he didn't ask for that injury to happen to him. He's lost a lot of his quality time that he can spend with his children. He can't play catch with them any longer, as you heard him speak. We have injured workers who face that daily and injured workers who also can't do a lot of recreational things they used to do.

There's the reduction of future economic loss awards by up to 40%, and the reduction of entitlement to compensation benefits such as back and repetitive strains, chronic pain and stress.

The government refuses to address the real fraud and abuse in the WCB system and is attempting to create a phoney crisis to make the following: More than 55,000 employers owe the WCB \$430 million in outstanding assessments and penalties; an estimated 20,000 employers which legally should be registered with the WCB and contributing to the system continue to go undetected; some 700,000 Ontario workers are denied WCB coverage because their employers have been successful in lobbying governments to exempt them from the system.

With the above points taken into account and the hundreds of millions of dollars being sucked from the system by employers, how can Harris and his government justify their drive to slash benefits and attack disabled workers?

During the period of 1990-94, there were 25% less claims coming into the board, but the denials of initial entitlement were increased by 40%. With the proposed changes such as material change, we can see the denials increase even further. We are concerned with the definition of "material change." As of this point we haven't seen any definition, so are we to take this definition to be wide open to interpretation?

To follow along with this, a worker who fails to inform the board of a material change in connection with his or her entitlement within 10 days is guilty of an offence. A worker who is guilty of an offence under the act could receive a fine of up to \$25,000 or a jail sentence of up to six months.

Presently an employer who fails to submit a form 7 in three days is liable for a \$250 fine that is rarely enforced by the board, but with the new material change clause, the board is now intimidating injured workers not to file a claim because of this "material change" definition.

With the definition change of injury to disability, and now that you must have your accident witnessed or prove it was a direct result of your work, this is further going to tie up the adjudication process. Our question now is, if I'm on my way back to my workstation and slip on oil on the floor, falling and injuring myself, will this be covered by the board?

WCAT has traditionally been an independent body of the board. Now under the proposed changes they want to bring it back under the umbrella of the board, removing the impartial aspect of the tribunal.

We compare the unfunded liabilities as a cost the employers will have to pay in premiums for current and future injuries, such as we all do with our present home mortgages. Our mortgages are also unfunded liabilities, something that we have to take out now and pay later, so it's similar to the unfunded liabilities now facing the employers of this province.

Bill 15 on the Workplace Health and Safety Agency: Why was the Workplace Health and Safety Agency created? The agency was created to develop and deliver health and safety training programs. The creation of the agency recognized that workers and employees working together as equals is the most effective way for achieving a healthier and safer workplace.

Does cooperation in health and safety work? The agency was governed by an equal number of worker and employer representatives. The spirit of solving health and safety problems jointly resulted in the certification of close to 32,000 members of the joint health and safety committees. According to the latest WCB statistics, this training contributed to a \$630-million reduction in accident claims and a 30% reduction in the number of fatalities.

Why was the agency board of directors disbanded? Labour minister Elizabeth Witmer cited two reasons: the agency's \$300-million expenditure for certification training and the fact that only half the joint committee members who required certification training were trained. As a result, she revoked the appointment of the board of directors. Thirty thousand committee members have not been certified. The employers' refusal to comply with the

certification training was supported by Ms Witmer when she extended the certification training deadline.

Despite Labour minister Elizabeth Witmer's commitment to occupational health and safety, documents from the Ministry of Labour reveal the government plans to make deep cuts to the ministry's operation. A leaked ministry document contains some of the following: cut the Ministry of Labour's total budget by 46.4% over the next two years; reduce inspections of larger companies with joint health and safety committees and certified members and set up preventive inspections of so-called high-risk workplaces with less than 20 employees; reduce the ministry's mediation services with respect to appeals and health and safety committees; introduce user fees to lodge appeals with the office of adjudication.

There are only 215 health and safety inspectors working in the field to protect 4.5 million workers and 300,000 workplaces. Less than 10% of industrial workplaces are inspected by a health and safety inspector. Scientific evidence shows that declines in workplace fatality and injury rates are correlated with the number of inspectors, the frequency of inspections and the frequency of penalties.

Harris's health and safety: no right to know; no right to participate; no right to refuse unsafe work.

Prevention must be at the heart of the Ministry of Labour's occupational health and safety policy. Intervention and enforcement must increase. We must remember that all workers are an accident away from an injury.

We demand that Bill 15 be withdrawn, that funding be maintained for the Workers' Health and Safety Centre, and that the enforcement of health and safety laws be strengthened.

In closing, government and employers have cut back on workplace health and safety. Serious injuries have gone up. If benefits are reduced, employers may pay lower premiums, but taxpayers pay more to cover social assistance and health care costs for injured workers.

We demand that workers' compensation remain employer-funded and be designed to compensate workers for injuries caused by or related to the workplace. We also demand that the Harris government provide the workers of this province with safety and security in the workplace, which is the right of every worker in Ontario.

The Chair: Thank you, Mr Rooke. The questioning this round will begin with the government benches.

Mr Jack Carroll (Chatham-Kent): Thank you very much for your presentation. Did I pick you up right in the beginning when you said that as a union local president you spend about half your time on WCB issues?

Mr Rooke: Over half my time.

Mr Carroll: Previous presenters have said that the red-tape burden has a tremendous impact on workers. You've suggested a reappointment of the royal commission. Some 55 employers owe over \$430 million; 20,000 employers are not even signed up; 700,000 workers aren't represented; we have an \$11.8-billion unfunded liability and the second-highest premiums in the country. And we don't have a crisis?

Mr Rooke: The crisis was developed by the employers. The reason I spend so much time on workers' compensation is because the majority of the employers I deal with don't send in their form 7s. Until the form 7s are sent in, the board can't act. So the injured worker's reports are in, the doctors' reports are in, and then you spend your time chasing around the employers. You call the board and you get hold of the adjudicator and they say, "Well, we're missing the form 7." You call the employer and they say, "Well, we'll get it in right away."

I've started to ask adjudication to fine the employers where I represent the members, and it's, "Well, we'll give them another week." So then you have the injured worker sitting out there for 12 weeks with no money. In some of our larger plants in our collective agreements, we've been able to negotiate clauses where if a WCB claim is held up or in dispute, they receive the equivalent of our weekly indemnity programs. So that allows them to get some money in. They sign a waiver. Then if we're successful, it comes back in.

Most of the time it takes us two years to get to a hearing, and the reason we're there is because of what's put on the forms by the employers and because of the fact that the employers don't fill out their forms.

Mr Carroll: I think the system is busted, and I think we have to fix it. Obviously, based on the things you say, it doesn't work for the workers very well either. So we think it needs to be improved and that's what we're trying to do.

Mr Rooke: I think if you lived up to the present act, the system would work fine for the workers. Under the present act, it seems that you pick and choose.

Mr Duncan: Mr Rooke, on page 6 of your statement you indicated that WCAT has traditionally been an independent body of the board and under the proposed changes they want to bring it under the umbrella of the board. How does that happen? I didn't find that in the act.

Mr Rooke: I got this information from the workers' adviser.

Mr Duncan: I think they're wrong. Bill 15 doesn't deal, to my understanding, with WCAT, except to reaffirm that the chair of WCAT will continue to sit as an ex officio member of the multi-stakeholder model.

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Mr Rooke: The information we received was that they were looking at bringing the tribunal back under the umbrella of the board. That would take away their independence. They would then fall under all the policies of the board. That's the information we got from the workers' adviser; it could be wrong.

Mr Duncan: One other supplementary: Has your local or have you individually been asked to make a submission to Mr Jackson?

Mr Rooke: No.

Ms Martel: You were asked earlier, if I might, Mr Rooke, as to what your thoughts were with respect to all of the things that are happening at the board: workers' payments being delayed, a number of employers who, for whatever reason, refuse to register, refuse to send in form

7 etc. You were asked whether or not, if the system isn't broken, we shouldn't fix it. Do you see anything in this legislation, frankly, that deals with the concerns you have as a union rep who spends 50% of your time dealing with WCB cases?

Mr Rooke: Not at all. If anything, I can see increasing my time.

Ms Martel: If it were left to you, then, to take a look at Bill 15 and revise Bill 15 and deal with some of the things you see as a rep are causing a problem to the workers you represent, what would some of those changes be?

Mr Rooke: I think I'd put the royal commission back in and let the stakeholders tell you where the problems are. It's great until you face it. The penalties to the employers have to be increased and enforced. A lot of the problems we have are the fact that the forms aren't sent in; it causes a delay. We get to adjudication and there's pressure put on because of the unfunded liability, because of the threats of cutbacks at the board. So a lot of things are being denied. We're led to believe that they're being told to deny a lot of initial claims just to move it on.

The new system that's come in since October 2 on taking one step of the appeal level out is just going to clog up the system. If you had claims in prior to October 2 that you were waiting for a hearing for, like the one I alluded to before—that claim's been waiting for a hearing for about a year and a half. Now we get a week, but we're getting all kinds of the 9,000 that were backlogged at decision review sent out to us right away and we've got 45 days to go through the file and make a decision whether we go (a) or (b). That's clogging up the system as well.

The Chair: That, I think, runs out our time, Mr Rooke. I appreciate you taking the time to come before us today and I appreciate your answering the questions as well.

ONTARIO AND TORONTO AUTOMOBILE DEALERS ASSOCIATION

The Chair: Our next presentation is from the Ontario Automobile Dealers Association. Good morning, Mr Davis.

Mr Bill Davis: Good morning. I'm Bill Davis and I'm the director of government relations for Ontario and Toronto Automobile Dealers Association. Our association represents some 1,000 new-car franchise dealers located in every major city and town across Ontario. In aggregate, we employ approximately 55,000 people. The average dealership in Ontario employs 55 to 65 individuals, and our members are indicative of the small, entrepreneurial businesses that play a major role in powering the economic engine of this province.

In 1993, under rate group 657, automobile and truck dealers, our members contributed some \$16 million to the WCB; and under rate group 630, vehicle service and repairs, our industry, along with other employers of that classification, contributed \$48 million to the WCB.

The auto industry retail sales and services contributed in excess of \$60 million to the WCB in 1993, and they're the latest figures we have. Our members do indeed have a stake in any reform to the WCB.

The business community was not alone in pointing out the obvious reality that the workers' compensation is a system in crisis, broken both financially and structurally. The unfunded liability, as you know, stands at a staggering \$11 billion and continues to grow at \$2 million per day. This liability threatens both the competitiveness of the Ontario business and the long-term viability of workers' compensation itself.

The heart of the problem has been government's failure to make the organizational and regulated changes needed to foster accountability and operational efficiency in the workers' compensation system. All political parties in Ontario have recognized the extent and the nature of the problem of the WCB. It was the previous NDP government which asked the PLMAC to undertake WCB reform based on economic viability and the governance structure.

The Liberal Party, both in its election red book and its reviews of the WCB under former Labour critic Steve Mahoney, called for major structural and operational reforms. All parties recognized that the WCB was in crisis financially and structurally.

Our members commend the Minister of Labour and the Harris government for assuming decisive and corrective action as outlined in Bill 15. These reforms will address financial and governance issues and ensure that the WCB conforms to the original concepts as a vision by Sir William Meredith as that of a workplace accident insurance plan.

Our association supports the government's recommendation to replace the bipartite board with a more effective and accountable multistakeholder board of directors.

The bipartite model of labour versus management approach resulted in confrontation and paralysed effective decision-making on crucial administrative policy and financial issues. This form of government simply did not work and was aptly demonstrated at the Workplace Health and Safety Agency.

It's also interesting to note that the NDP government of British Columbia arrived at the same conclusion recently. They found it necessary to remove the WCB bipartite board of governors and replace it with a panel of administrators.

It is our contention that the new multistakeholder board comprised of representations from employers, workers, members from the insurance, medical and rehabilitation communities and others will bring a different and renewed perspective to the WCB. This will result in better and more responsive management and decision-making, as now in the cases of Alberta and Manitoba.

In our submission on Bill 165 to the standing committee on resources development, our association petitioned for fiscal responsibility and accountability at the WCB and the elimination of the unfunded liability by the year 2014.

Our members and the business community at large committed themselves to a funding strategy of increases of 15% and 10% of assessment over a six-year period that would have retired the unfunded liability by the year 2014.

Employers of the province have reduced both the number and total costs of new claims, but assessment rates have spiralled. Since 1984, the cost of new claims has decreased by 19%; overhead charges of the WCB have increased by 19%; cost of old claims, the unfunded liability, has increased by 76%; employer premiums have increased by 170%; and Bill 165's \$200 supplement increased the unfunded liability by a further \$1.5 billion.

Our association supports the Minister of Labour's initiative to incorporate a financial responsibility framework in the new purpose clause for the WCB. This action, in concert with the new measures requiring the WCB to provide a five-year strategic plan, a statement of priorities and their investment policies to the Minister of Labour and a legislative directive to perform value-for-money audits, will ensure fiscal accountability and sound financial management practices at the WCB.

We endorse the six principles set out in the purpose clause and are pleased to see the inclusion of the two new objectives: to "prevent or reduce the occurrence of injuries and occupational disease at work" and to "promote health and safety in the workplace."

These objectives are encouraging because they clearly indicate that the responsibility for health and safety is being returned to the WCB where our members believe it rightfully belongs.

The amendments announced on November 1, 1995, only carry out the first half of the government's commitment to reform the WCB. Our association looks forward to and will cooperate with the Honourable Cam Jackson's pursuit of economic reforms that will address the issues of benefit levels, entitlement, assessment rates and the unfunded liability.

Our members expect the government to fulfil its commitments to:

Reduce the assessment rates by 5% for schedule 1 employers as soon as possible. This action would remove present inequities in the system, enhance competitiveness and encourage investment.

Introduce a waiting period for benefits. This action will reduce substantially the number of frivolous claims, as the experience in New Brunswick has demonstrated.

Reduce benefit levels to 85% of net average earnings for new and previous claims. This action will address the issue of overcompensation. It will reduce pressure on the WCB and WCAT to give privileged treatment to groups of claimants and claims.

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Apply the Friedland formula to all WCB claimants.

Ensure the WCB new claims performance drives the price of the system. Improved new claims performance should result in reduced WCB assessment rates. The WCB and the government must then take action to reduce and control overhead expenditures and the cost of old claims.

Our association strongly disagreed with the provisions of Bill 165 that granted a \$200 supplement for life to workers receiving a permanent disability pension and who were in receipt of a section 147(a) supplement. This act increased the unfunded liability by \$1.5 billion and was

a classic example of the WCB's failure to exercise fiscal accountability.

In our opinion, the supplement should be means-tested, payable to age 65 and applicable only where an earning loss was caused by a work-related disability.

As well, compensation for stress-related claims should be limited to those cases where stress arises as a result of an acute reaction to a traumatic workplace incident.

Finally, the experience rating program, NEER, needs to be supported and developed. This program, in our opinion, is one of the most accurate and effective ways to reward the positive achievements in the health and safety and return-to-work practices while at the same time discouraging negative behaviour and practices.

Bill 15, An Act to amend the Workers' Compensation Act and the Occupational Health and Safety Act, is an essential first step to restoring financial viability of the WCB and making the system serve stakeholders in a more efficient, cost-effective and responsible manner. However, the WCB will continue to be a fiscal risk until decisive action is taken to retire the unfunded liability. We therefore commend the government's initial action but look forward to the economic reforms promised for 1996.

The Chair: Thank you. The questioning will begin with the official opposition.

Mr Pat Hoy (Essex-Kent): Mr Davis, on page 3 you speak about the members and business community at large committing themselves to increases of 15% and 10% over a six-year period to help the unfunded liability by the year—

Mr Davis: To remove it by the year 2014. The first three years was a 15% increase in the assessment rate; the next three years was a 10% increase in the assessment rate. The employer community undertook that obligation—in fact, accomplished that obligation—but the unfunded liability wasn't reduced because of the increases.

Mr Hoy: Then could you help me in how you reconcile, on page 5, to "reduce the assessment rates by 5% for schedule 1 employers as soon as possible"?

Mr Davis: That was a commitment made by the provincial government. It's a commitment we endorse and we're now asking them to enact that. They were unable to do it at this time because of some technical errors in their computation. We believe it can be done and we believe it will not provide any difficulties in still meeting the obligations of the employer and the workers' compensation obligations financially.

Part of that has to do with the fact that they did, about three or four years ago, a reassessment, and attempted to bring all the assessments into line. So, for example, in our industry, the top assessment rate will be about \$3.90. Some of our members are already at that, some are under that, and it really goes back to the WCB's inefficiencies in arriving at that. There are rate groups out there right now that are paying more money than they should and there are rate groups that are paying less money than they should. We're asking for that balance, and that 5% will be part of that balance.

Mr Duncan: We were trying to reconcile your first position, that your employers or the people you represent would support or have supported a 15% and then a 10% increase in assessments, and later in your document, you go on to urge the government to fulfil its commitment. You just don't restate it, you urge them to fulfil it.

Mr Davis: No, no, you misunderstand. The 10% and 15% were actions that have already occurred—I believe they occurred in the mid-1980s—taken by the employers' community to reduce the unfunded liability. It wasn't accomplished. It wasn't accomplished because the WCB was inefficient. So now we're telling the government, from the business community's perspective and also from the PLMAC perspective, that there are steps they can take now that will reduce that unfunded liability, and we expect them to take those steps.

Mr Duncan: So your employers actually experienced those increases already?

Mr Davis: We certainly did.

Ms Martel: Let me follow up from that, because if that was during the mid-1980s, we were dealing with a multi-stakeholder board of directors. At the same time that we had that multi-stakeholder board, in a single year, 1984, we saw the biggest single increase in the unfunded liability in the history of the province, from about \$2.4 billion up to \$5.4 billion in a single year. So, Mr Davis, tell me why I should have any confidence at all that moving back to a multi-stakeholder board of directors is not going to lead us right down the same path that we already were on?

Mr Davis: I can't answer the question in 1984, I'm sorry, because I wasn't around then. But I can tell you that our experience with a bipartite board of the Workplace Health and Safety Agency and the WCB in the present surroundings since 1989—in fact in 1985, 1986, I believe, or 1987, one of those three years—there was no such thing as a bipartite model in the WCB. It just occurred and the governments of those days allowed it to occur without any type of legislation or structure.

But those two agencies and the bipartite boards have shown that they wind up grinding to a halt because they cannot make compromises. They become, I guess, areas in which there are embattlements. We believe that it's better to have multi-stakeholder people on the board. Many of those people have expertise in WCB, and we believe it'll be better.

Ms Martel: Let me just follow up on that. The bipartite board at the WCB, those appointments went into effect in April 1995 and those folks had all of six months to deal with the new system at the board. When you talked about the bipartite form simply not working, you referred to the health and safety agency and you referred to an experience in BC, but the experience that I want to talk about is the six-month experience that the bipartite board at the WCB had.

That experience was (a) the board agreed to a plan to reduce the unfunded liability by the year 2014, which is what the government is trying to bring in with this bill; (b) they had an operating surplus that year for the first time. They also, for the first time in 10 years, had a

decline in the unfunded liability. Yes, it was only by \$100 million, but it was the first time we had a decline.

This, to me, does not characterize a board that was paralysed or that simply did not work. I wonder if you can give to the committee some very clear and concrete examples of what it was that so paralysed this board.

Mr Davis: Shelley, first of all, there's a rationale for the unfunded liability surplus. It has nothing to do with that board, it has to do with the way some calculations were done.

Second, in the instance of the bipartite board which did operate for six months officially, although it operated unofficially for several years as a bipartite board, they refused to enact a funding strategy developed by the management side—the other side did, by Mr Copeland. They refused to enact that section, which would have gone some way in addressing some of the issues. Those are the realities. The realities were they were stalemated.

Ms Martel: My understanding of the financial improvement package that the staff at the board put together that would have resulted in a \$400-million saving was that it was not the worker members of the bipartite board who objected to that, it was the employer members.

Mr Davis: Well, I guess you hear a different story than I do.

The Chair: Thank you, Mr Davis. That exhausts our speaking time. I appreciate your coming down.

Mr Duncan: On a point of information, Mr Chair: In a document you submitted to committee members that was based on questions that I had asked last week, there had been in the 1994 fiscal year a \$400-million transfer from the WCB accident fund into operations, which would have left a net deficit of some \$300 million had it not occurred.

The Chair: Thank you, Mr Duncan.

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ONTARIO PUBLIC SERVICE EMPLOYEES UNION

The Chair: Our next group up will be the Ontario Public Service Employees Union, the employee relations committee, Ministry of Labour. Please introduce yourselves for Hansard and the committee.

Mr Robert Rae: Good morning. My name is Robert Rae. I'm chair of the Ministry of Labour employee relations committee, the OPSEU committee. With me today is Wayne Ireson, another member of this committee.

We appreciate the opportunity to present our views on the changes in Bill 15 and the potential impact on the enforcement of health and safety in this province.

We are two of the four elected OPSEU members of the ministry employee relations committee. The committee represents over 1,200 workers in the ministry who belong to the Ontario Public Service Employees Union.

The OPSEU members whom we represent have the primary responsibility for enforcing the Occupational Health and Safety Act. These members include front-line staff such as health and safety inspectors, occupational hygienists, ergonomists and technologists. We also recognize the excellent support provided by the scientists

and technologists who work in our laboratories and in the radiation protection service. We also have OPSEU members who work in regulation development and program evaluation.

As front-line deliverers and enforcers of occupational health and safety legislation, we provide the public services that ensure that workplaces are safe and workers are protected. We believe that this service should be cost-effective and efficient. We also believe that these activities should not restrict the economic growth in this province. At the same time the working men and women of Ontario must be protected in the workplace.

For this very reason, our committee has made a submission to the Minister of Labour on Necessary Reforms to Ontario's Health and Safety Enforcement System. We have provided copies for the members of this committee today for your consideration. We sincerely hope our minister will listen to the experience and the suggestions of her front-line workers. We hope the minister will not decimate the enforcement system and the necessary technical and professional support that goes along with that system.

The issues of workers' compensation before this committee are serious issues that must be addressed. The increasing cost of human suffering experienced by the workers in this province concerns us. Both our daily experience in the workplaces of Ontario and general statistical trends show that health and safety conditions in these workplaces are deteriorating.

Between 1991-92 and 1994-95, critical injuries have increased by 80% and occupational diseases and illnesses have increased by 102%. Over roughly the same time, the Ministry of Labour budget allocations for health and safety have decreased by almost 18%, from approximately \$51 million to \$42 million. These facts and trends we have just noted clearly show us that the costs of workers' compensation will not decrease until the workplaces of this province are safe and healthy.

If one considers that it is primarily through interventions in the workplace that health and safety programs will have an impact, then the ministry must immediately reverse the trend it has established. A larger portion of the available resources should be dedicated to and support front-line enforcement activities.

We firmly believe that strict enforcement of the Occupational Health and Safety Act is essential in achieving safe and healthy workplaces for the workers and the employers of this province.

The bill under consideration by this committee proposes to change the purpose clause to include the prevention of injuries and occupational diseases and the promotion of health and safety as one of the major purposes. We understand that this highlights the importance of accident prevention in the workplace. We cannot disagree with the overall concepts. However, placing the emphasis in this act and within the jurisdiction of the WCB greatly concerns us. We believe that this will serve to dilute and likely signal the demise of the enforcement function of the Ministry of Labour. We are also wary of seeing another bureaucracy set up with overlapping goals and activities. This kind of action does not make sense.

There is, and probably will continue to be, some controversy over the dividing line between the activities that describe prevention and those that describe enforcement. There has been a lot of debate over the method and tools of enforcement. We know some of our own members have differing views on this subject. The great difficulty lies in finding the right balance of tools one can use to bring about compliance. However, the bottom line is that employers must comply with the legislation. The penalties for non-compliance must be a sufficient deterrent to discourage breaking the law.

Broadly speaking, we believe that an effective and efficient health and safety system must include at least the following components: adequate regulations, worker and employer training, and strict enforcement.

The Occupational Health and Safety Act, as well as the Workers' Compensation Act and the associated regulations, must be adequate to protect the health and safety of all workers and to compensate workers when unfortunate injuries occur on the job. These regulations need to be clearly defined, understandable, adaptable to change and, above all, enforceable.

Both the worker and employer communities need to be educated and trained to recognize the hazards associated with their work and the techniques to reduce and eliminate these hazards. Both groups must be able to receive the training in the manner that best promotes learning, retention and acceptance of the course materials. We believe that this education must begin at an early age. We also believe that health and safety training should be a necessary part of the high school curriculum.

We believe that consistent enforcement of the Occupational Health and Safety Act is essential to ensuring a safe workplace. A strong presence or the threat of the presence of an inspector in the workplace must drive enforcement. There needs to be technical and professional support that makes workplace investigations meaningful. An administrative penalty system must be initiated with progressive penalties to deter repeat violations and ensure that the cost of complying is substantially less than violating the law. This will allow some immediate enforcement action to be initiated at the time of the violation.

Where workers, employers and respective bargaining agents work cooperatively to advance health and safety, the parties should carry on with a minimum of interference. There should be some reward for compliance. Conscientious employers should have nothing to fear from enforcement under either the Occupational Health and Safety Act or the WCB act. On the other hand, there should be a significantly heavier penalty for non-compliance. The magnitude of the penalties must make it more economical to comply with health and safety legislation.

Safe and healthy workplaces make good economic sense and are cost-effective.

This bill proposes an explicit requirement for employers who must register with the board to do so within 10 days. We suggest that this cannot be done in isolation from other registration systems. We also hope this will not present an opportunity to develop a completely separate system.

We have heard claims, and again today we've heard them here, that there are as many as 20,000 employers who have not registered with the board and should be registered. We urge consideration and implementation of a one-source company registration with the Ontario government. This should take care of all the legislated requirements for all ministries, agencies, boards and commissions. We shudder at the thought of how many databases there might be within this government today having various bits and pieces of information.

Our own ministry has a merged information system database developed over the last six years at a cost of tens of millions of dollars. There is much information on many workplaces in this system. The WCB has a system as well. We expect that the board has more detail on some aspects of individual companies and more companies registered than our own ministry. We are aware there are databases in other ministries—the Ministry of Consumer and Commercial Relations, Finance, etc.—yet we are not aware of any direct links between these databases within government such that the common data identifying a workplace are shared and not duplicated.

The Ministry of Labour needs to direct its efforts to workplaces that are not safe and not healthy. To be more effective in identifying these workplaces, the ministry must make better use of the information that could be made available to it. Some of this information could come from the board. This will help to manage the relationship between enforcement and targeting of repeat violators.

In conclusion, we'd like to reiterate that all the initiatives in this bill will have little impact unless workplaces in this province are safe and healthy.

The Chair: Thank you. The questioning will begin with the third party.

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Ms Martel: If I may go to page 3, Mr Rae, I want to focus a little bit more, please, on your concern that if you change the purpose clause in the WCB act to focus more on health and safety, the net result will be actually to signal the demise of the enforcement agents within your ministry. Can you expand a little bit more on that concern, because I think that's a concern for all of us.

Mr Rae: There was a document that became available generally signalling a decline of roughly 46% in the Ministry of Labour. Now we recognize that the minister, in the House, has said that health and safety inspectors will not be decreased. However, the minister hasn't said anything more about the support to the health and safety inspectors, or the rest of the ministry in fact. But as we said in the brief, there's a fine dividing line between enforcement, which people sometimes refer to as reactive work, and proactive prevention. There have been controversies in the past about who's going to do what and I don't think that this province at this time can sustain two bureaucracies fighting over what they should do.

Mr Carroll: Good presentation. I compliment you on the idea of the need for training in schools in health and safety. I think it's right on, and also the idea of ministries sharing databases. On page 3 you talked about that by

dismantling the occupational health and safety agency and placing it under the WCB, you fear another bureaucracy being set up. Could you explain exactly what that fear is and how you see another bureaucracy being set up?

Mr Rae: What we fear is that people in some ways—routine inspections of workplaces, depending on whom you're talking to within our ministry or outside the ministry—consider those as preventive activities, whereas we, as front-line enforcers, feel that routine inspections of workplaces are enforcement activities and we're very concerned that the routine inspections or auditing of workplaces, which we see as a necessary function of enforcement, will be taken away from the ministry. I guess this goes back to the discussion about accreditation under the agency before the actions of June.

Mr Carroll: As I see things now, we have two bureaucracies: We have the occupational health and safety agency and we have the Workers' Compensation Board bureaucracy. I would have assumed that we were going to eliminate one and just have one left, and yet you fear the establishment of another one. I'm really having trouble understanding that.

Mr Rae: Right now we inspect workplaces. We're also aware the board also has people who go out to workplaces under the Workwell program, and I'm not totally conversant in it. I'm sorry, I have to apologize, but in terms of that program they go out and they evaluate the paperwork that people have in place: the policies, procedures. Well, to us, it seems like a duplication of effort, and that's the fear, that something along those lines will be developed where we will have two different parties all going to the same workplace asking very similar questions.

Perhaps, if we could, Wayne would like to answer.

Mr Wayne Ireson: Keep in mind, when the workplace health and safety agency was established, it was to take on a definite role of being the proactive body to look after the delivery of the training, to look after providing information to the employers and to the workers in the province. And it looked like, to those of us who were in the profession, that finally we were going to have definitive roles: a definitive role for the Workers' Compensation Board to look after compensation for the worker and to have the agency look after that information source to the workplace parties. And by folding it back into the WCB, we go back to what we were before, which is one agency trying to be all things to all people in the workplaces, and it hasn't worked. In the years that I've been in this profession, it's just not working. That's why the accident rates are so high.

Mr Carroll: So your comment is not that we create another bureaucracy, but that the bureaucracy that would be there wouldn't work as effectively. Is that basically what you're saying?

Mr Ireson: Hasn't in the past, as effectively as it could or should.

Mr Duncan: Mr Rae, if I could, I'd like to pursue it. I spoke in the Legislature about my concerns around the purpose clause and the two additional sections, and you've put forward one of two possible cases. One is that

they eliminate or reduce the function of the occupational health and safety division of your ministry and its enforcement provisions, but the more interesting one that I'd like to pursue with you, and I think the government's been very clear on other issues about its desire to cut red tape for business: Are you suggesting that inserting these two purpose clauses, in addition to the purpose clause, could create a parallel or second bureaucracy dealing with health and safety enforcement at the Workers' Compensation Board, say, similar to what local utility authorities do at the same time local building departments do. Is that a concern to you?

Mr Rae: Yes. The short answer is yes.

Mr Duncan: So you think this could lead to a lot of bureaucracy and red tape both for workers and employers?

Mr Rae: We think it could lead to more than one person from the government, in the broad sense, going into a workplace asking very similar questions.

Mr Duncan: So duplication and unnecessary expenditures of funds.

The Chair: Thank you, Mr Rae and Mr Ireson. We appreciate your taking the time, and what with midnight sittings, the members of this committee that have House duty tomorrow will have lots of time to digest your other submission here. Thank you.

CANADIAN AUTO WORKERS, LOCAL 524

The Chair: Our next group up: the Canadian Auto Workers, Local 524. Good morning.

Mr Rick Whatley: Good morning. My name's Rick Whatley. I'm the benefits rep for Local 524 CAW in Peterborough, representing 1,000 workers at the General Electric plant there.

Due to short notice, my summation is short, and I've kept it basically to some of the problems that we have on the shop floor in Peterborough in a heavy industry. There is one typo in the summation I gave you. On page 2, second last paragraph, should be "specialty paints," not "especially paints." I'm not a great typist.

Again, as the earlier CAW rep said, I spend more than 50% of my time coordinating the WCB on the shop floor. I also look after the sickness and accident and the UIC on the shop floor. I'm full-time, and I'm paid by the corporation.

I would like to open my presentation with a strong protest against the short notice given for these hearings. I received my notice on Friday, December 1. This kind of short notice makes it difficult to be prepared, especially on such vital concerns as we are dealing with here today. Another inconvenience is that all the hearings are in Toronto, and this will stop a lot of good people from putting forth their views. It's clear to myself and others that this government is not interested in the democratic process or other people's points of view.

The amendments to Bill 15 are in direct conflict with the laws of Ontario and the rights of the citizens of this province. The Workplace Health and Safety Agency and the Workers' Compensation Board's structure and makeup were defined by law but this government disregarded the law and fired both boards.

Now, after the fact, Bill 15 proposes to outlaw lawsuits or civil proceedings against the government for these violations of the law. The people of Ontario did not vote for a benevolent dictatorship but for a democratic government with open debate. In fact, one of their platforms in the campaign was more law and order. To paraphrase Winston Churchill: some law, some order.

Safety in the workplace: With the new direction of corporations the last few years of lean production, line speedup and scheduling of excessive overtime has become the norm, health and safety enforcement has declined and the health and safety of workers has been jeopardized. Where we are today is already unacceptable, but by limiting the inspection even more, by reducing the right to refuse unsafe work and limiting safety training, you will be placing a large segment of workers at risk on their jobs.

The corporations rate worker health and safety away down on their list of concerns. The only way that we're going to have adherence to the rules is with strong and viable workers' input to the process, along with government inspections.

Workers' compensation: I think many of the presentations being made to you today will lay out to you the economics surrounding workers' compensation and will help to diffuse the big lie about workers' compensation being broke. I would like to address a problem I see in my own workplace arising out of the proposed changes.

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I represent workers at GE Peterborough, a plant that is over 100 years old; a workplace that uses and has used over the years many dangerous chemicals and substances to produce large and small motors plus nuclear fuel. Some of the chemicals used were PCBs; epoxy resin, which is still used today; beryllium, which is still used today and one of the most deadly poisons that can be used in the workplace; varnishes; thinners; specialty paints; and asbestos. Asbestos is not used now.

A little sidelight to the asbestos: I started in the plant 33 years ago. I worked in the area where asbestos was used; I didn't work specifically with the asbestos. There is not one of those workers today who is alive who worked on the asbestos, and they were basically my age or younger. They are all deceased, all with lung problems. We were never able to establish a WCB claim until the last one, a gentleman by the name of Wendell Woodcocks. He passed away and through an autopsy we were able to establish asbestosis, and his widow and family are now receiving benefits.

I have the painful task of dealing at this time with five young widows and their families who lost their life partners to cancer. All five of these workers can be tied to the vapours coming from the VPI tanks curing the armatures for large motors. The youngest of these workers was 38; the oldest was 52. It is not a pretty picture to watch your fellow workers cut down in the prime of their life because they were doing their jobs.

A sidelight to this one: In last December's round of negotiations we managed to negotiate a cancer study for the plant in Peterborough. We're a year into it. We've

had some people from WCB involved; we've had people from occupational health and safety involved. Five deaths doesn't sound like much. Those five deaths are five out of one small area, young people, basically the same type of cancer, all contacted the same type of vapours, worked with the same type of chemicals. We have 134 so far that we've tracked and we think that we will probably hit about 40% of our workforce either has or is dying of cancer or has died of cancer.

Repetitive motion strain is a byproduct of certain jobs in our workplace. We are a senior workforce with an average age of 47 years, with an average seniority greater than 25 years. Years of winding electric motors day after day takes its toll on wrists, elbows and shoulders. We have a high number of female members with carpal tunnel syndrome, tennis elbows and frozen shoulders. To say that RMS injuries shouldn't be compensable is criminal. Most of these workers will be in constant pain for the rest of their lives. Activities that they would normally do away from work are greatly curtailed. The pressures of speedup and more overtime have compounded these problems.

We are an industry that at this time of year, I am lucky that I am here. If I wasn't paid full-time—no worker off the shop floor is allowed off the shop floor. At this time they have been working now 19 straight weeks without a day off to get the year-end profit out of that company.

To reduce payments to injured workers, to put in a three-day waiting period for benefits lends credence to the lie that workers are at fault, not the corporations that are making increased profits on the backs of the workers.

With large pools of unemployed workers in Ontario, it is much easier to throw injured workers on to the scrap pile and replace them. The worker who lost most of one hand in a machine that the company said would never double trip—surprise; it did and took off most of his hand—will never again have the same quality of life. Neither will the worker who fell 15 feet from a scaffold and crushed two vertebrae in his back, or the 53-year-old female worker who had both arms operated on for tennis elbow and must wear supports every day.

I would urge you out of common decency and common sense not to weaken workplace health and safety but to strengthen the legislation to protect the workers of Ontario and their families, and at the same time I would beseech you not to take away the financial protection provided workers by workers' compensation. I thank you very much.

The Chair: Thank you, Mr Whatley. The questioning will begin with the government members. Mr Carroll.

Mr Carroll: Thank you very much, Mr Whatley. We members of the government agree with you totally about safety in the workplace. We have no intentions of making the workplace a less safe place. Our objectives are to make it safer. Our approach maybe is a little bit different than yours, but that certainly is our objective.

But you're the second person now, and maybe the third even, who has made reference to the impact of overtime on this whole issue. Are you and your union and your members in favour of eliminating that overtime component to make the workplace safer?

Mr Whatley: You ask me a loaded question. Am I in favour of doing away with workplace overtime? Not all overtime. I believe businesses do have sometimes an emergency where overtime may crop up.

Am I against the type of overtime that they're doing now because they've laid off so many of the workers? I had 3,500 members in my bargaining unit; I now have 1,000. We're putting out, moneywise, more than we put out when we had 3,500 people. The way they're doing it is working the people every weekend. My collective agreement does not say "voluntary overtime," so they can use what's known in the Employment Standards Act as the 48-hour week, six eight-hour days. They come to the people on the shop floor and say, "Jeez, if you don't work Sunday, we're going to lose the business; you're not going to have a job." So that's pressure. The law is not on their side to do it, but it's pressure.

Are my workers in favour? I've got some workers who'd move their bed in there and work 24 hours a day, seven days a week; I'm not going to kid you on that. But I also have other people who are very upset that they're forced to work every Saturday of every weekend, and then the company wants them to work every Sunday to go along with it, and then it wants them to work two or three hours after every shift during the week.

Mr Carroll: Obviously overtime is a component of workplace safety. Would you suppose that in a new round of negotiations unions like yours and other unions would in fact negotiate that overtime be eliminated?

Mr Whatley: I have tried in the past three rounds of negotiations to make overtime voluntary in the collective agreement. The company has told us it will never, ever give up the right to mandatory overtime. So it's a sawoff.

Mr Duncan: I'm curious about your views on health and safety, particularly the occupational disease area. You're experiencing a very tragic circumstance obviously in one, I guess, small part of the group that you represent. To come back to the purpose clause that's in this bill that adds purpose sections to the Workers' Compensation Act that would see the board being involved in the administration of health and safety, do you feel that is necessary? The CAW historically has often expressed concern about the Ministry of Labour health and safety division. Would you prefer to see the health and safety enforcement function under the board or remain with the Ministry of Labour?

Mr Whatley: You're asking me a personal question. I may violate my rules with the CAW. I think it should be separate. It should be under the Ministry of Labour.

Mr Duncan: So you feel it should stay with the Ministry of Labour?

Mr Whatley: Excuse me?

Mr Duncan: So then you feel that the inspectorate and the enforcement of the Health and Safety Act should remain with the Ministry of Labour.

Mr Whatley: No, that's not what I said.

Mr Duncan: Oh, I'm sorry; I misunderstood. So you're saying we should move it over to the Workers' Compensation Board?

Mr Whatley: I guess you got me. I guess it should stay with the Ministry of Labour. That's not my expertise; my expertise is looking after my own local client. I talk to our national people, and our national people, I know, are making a presentation. I don't know whether they've already made it or are making it. I know Cathy Walker is making one. That's why I didn't want to go into a whole lot of details. I could fish the numbers out about the board and that, but I didn't want to get into that.

Mr Duncan: In terms of the study you're doing on the cancer deaths and the incidence of cancer, have you had a lot of support from the Ministry of Labour on this?

Mr Whatley: Yes, we have.

Mr Duncan: Okay. Thank you.

Ms Martel: Mr Whatley, you'll know I don't mean this to you when I say that your workplace sounds like a horror show. The number of deaths alone is just unbelievable. What do you think, then, of one of the presentations we heard earlier from the business side which urged the government—and this is the government's own recommendation, so maybe you should tell me what you think about a government that's quite prepared to reduce benefit levels to 85% of net and quite prepared, and I assume this is coming in the spring, to disallow repetitive strain injuries. You've got a workplace where you've got not only people dead from all of the toxins and chemicals and everything else that's been used but a whole bunch of people who are seriously injured because of the repetitive work they do.

1140

Mr Whatley: I think it's absolutely criminal that you would take something like repetitive motion strain out of the act. The people in there were healthy when they came in at 18, 19, 20 years of age. We don't have an early retirement plan. People have to stay there until they're 60 years of age or they don't get a pension. The 53-year-old that I mentioned is on modified work. The company may or may not keep her on modified work till 60 years of age. They are running out of places to put people with repetitive motion strain on modified work. These are legitimate people who have had the carpal tunnel injuries operated on, both wrists in most cases, and both elbows for the bilateral injuries that they get.

In our industry, in a heavy industry where you wind motors and you wind them by hand and you're working in tight spots—they used to put the females on it back in the days when we could have female jobs and male jobs. Before 1971 that was a female job because they had small hands and because they could work on it, but now everybody's on it. We have a lot of senior females, over the age of 50, who have had one, two, maybe three operations over this, and to say it's not work-related—and now they want them to work 56, 60 hours a week doing that type of work, which speeds up the process of them getting there. I have a big concern, because where are those people going to go?

Are we going to send 53-year-olds who have worked 30 years of their lives to the social services? Is that where we're sending them? Or do we pay them and give

them an economic loss? Because they'll probably never be able to wind another motor again once they start this, and winding motors is a reasonable rate of pay. You only have so many cleaning jobs within a plant, so where are you going to put people? I think it's criminal to take that type of thing out, just the same as it would be criminal if the person who gets cancer from something in his workplace is not going to get compensated for that. If you're going to go back to just a straight injury, and I can see a broken bone, where are we going to be?

The workers are in jeopardy here and the workers are the ones we should be protecting, not the corporations. The corporations want to make it better? We went after them for years that they could do things to get rid of some of the ergonomic problems that are in that plant, and they wouldn't spend \$10 to save themselves \$50 down the road. So yes, I have a real problem with where this is going.

The Chair: That's the end of our time, I'm afraid, Mr Whatley, but thank you very much for taking the time to come from Peterborough to speak to us today.

CANADIAN AUTO WORKERS, LOCAL 707

The Chair: Our next group up is the Canadian Auto Workers, Local 707. Good morning.

Mr Bruce Gay: I apologize for not having a written submission. My notification came in kind of late too, and because of some appointments I had at the board in Hamilton on Friday and some commitments on Saturday and Sunday, I wasn't able to put a presentation together.

Much of what you're going to hear from me has already been said. I'm concerned about the 55,000 employers that owe the WCB \$430 million. What's going to be done about that? NEER and CAD claim management schemes drain the WCB of more than \$200 million annually. Cash flows from the WCB back to employers because of loopholes in these programs which purport to encourage safer workplaces. Some employers are refunded up to 80% of their WCB premiums. If they manipulate these programs successfully, this is real cash, not just an addition to the unfunded liability's paper debt.

I understand that new claims costs have decreased over 8% in the last four years, from an average of \$2 to \$1.68 per \$100 of payroll. The WCB's overhead has decreased 8% in the past four years, from an average of 49 cents to 44 cents per \$100 of payroll.

According to its 1993 annual report, the WCB devoted 17% of its total expenses to pay for overhead; Sun Life of Canada 30%, and the Minnesota privatized workers' compensation system, 29%. I also understand that the board will enjoy this year a cash flow surplus. If indeed this government is thinking of privatization, I would have to ask the question, what justification?

I'm very concerned about the changing of the definition of "accident," which will make it much more difficult for legitimate WCB claimants to access benefits. Once UI benefits or sickness and accident benefits are exhausted, where will these disabled people turn? Employers will offload the responsibilities to Ontario's social assistance programs; property taxes will rise.

A three-day waiting period—there is no justification for that—will not have any impact on reducing the

unfunded liability because short-term claims have absolutely no impact on the unfunded liability. It is very seldom when a person is off work for three or four days, a week, 10 days, that they develop a permanent disability which would impact on the unfunded liability.

I'm going to finish by telling you something that happened on Friday. As I said, I was at the regional office in Hamilton. I had a meeting in the morning in the main office and a hearing in the afternoon. When I went to the counter in the Hamilton office, I was asked by the girls on the counter what I was doing in Hamilton. I said I had a meeting and then a hearing. They said, "You don't have a hearing here; we don't have hearings at the Hamilton office on Thursdays and Fridays."

My hearing was indeed over at Commerce Place, across the street and down on the corner of King Street in Hamilton. Meanwhile, two meeting rooms sit vacant and empty in the Hamilton office Thursdays and Fridays, while they're renting space at Commerce Place. I don't know where they rent it in London, I don't know where they rent it in Toronto, I don't know where they rent it in Thunder Bay, but that's some waste that, if you're looking at reducing costs, certainly could and should be looked at.

I thank you for the opportunity to speak.

The Chair: Thank you. The questioning will begin with the official opposition.

Mr Duncan: Mr Gay, could you share with me some of your experiences with the board in terms of wasteful situations that you think could be corrected without penalizing injured workers? You just cited one example. I know you've got considerable experience. I'd be curious to hear some other thoughts in that area.

Mr Gay: I think part of the waste that is created at the board usually ends up at the hearing level. I think if there were sufficient adjudicators to properly adjudicate claims you could cut down on a lot of the subsequent appeals down the road. You could cut down on the backlog, which used to be at decision review and is at the appeals section now, because the right decisions would be made at the time the claims were being adjudicated. I tell you, at least 90% of the claims that I take to hearings we have a favourable response to. The claims are allowed at the hearings level, and if they're not allowed at the hearings level, then chances are you've probably got a pretty good shot at WCAT. This is waste. You do not have enough people at the regional offices to properly adjudicate the claims.

If you choose to talk to some of the adjudicators and some of the people in the regional offices who have just thrown their hands up, they are so overworked, they have so high a caseload volume that they just cannot function properly. I know in the Hamilton office, and it's a standing joke, if the young ladies in the Hamilton office need some time off work, they get pregnant and they take their time off work.

Mr Duncan: Have you been invited to make a presentation to Mr Jackson on his reforms?

Mr Gay: No, sir. I was in Mr Jackson's office a couple of weeks ago and we weren't even invited to

come back and see him. The receptionist in his office would not make an appointment for us; we were a labour group.

Mr Duncan: So there's been no opportunity for your local to comment or have input into the reforms that Mr Jackson is contemplating?

Mr Gay: Absolutely none whatsoever.

Ms Martel: Mr Gay, you have some sense, because it's been widely publicized, of the mandate that Mr Jackson is involved with in terms of some of the changes he would like to make. I wonder, since you haven't been invited to talk to him about this or make a presentation, if you can give us some sense today as to whether or not the government's direction, which we expect will be given to us in the spring, is going to do anything to help the workers you're trying to represent or anything to fix the system that the government alleged is so broken.

1150

Mr Gay: No, I can't see anything in the direction the government is going that really is going to enhance the position of injured workers. In fact, I can see by the information that I have that your new compensation bill, Bill 15, will be a detriment to the workers. It really does seem that much consideration is given to the employers and very little consideration is given to the injured workers, and I think that's a shame. I guess the cartoon in the *Toronto Star*—was it yesterday or Saturday?—where the gravestone, the grave marker, says, "Fairness, Victim of Common Sense," says a lot.

Common sense is fairness. We do have to look after injured workers, as we do have to look after the ill, the poor and all other peoples who cannot look after themselves, and if you want to fix the compensation act, there are a lot of good things contained in Bill 165 that should be held on to.

I said earlier how much the NEER and CAD-7 claims management schemes drain the compensation board of. Once you have that money, why do you give it back? There is another way to do it. If indeed a manufacturer, a business, reduces its claim costs, then in future drop its premiums to reflect that. But to drain \$200 million out of the compensation, to me that doesn't make sense. It is a scheme that is manipulated by employers. I know at the Ford Motor Co I saw a memo. The memo stated that this person, this person, this person should be brought back before a certain time or it would be adversely reflected on their NEER. I mean, this is total manipulation, and it should be corrected.

Mr Baird: I didn't get which community you're from.

Mr Gay: I represent 4,500 people at the Ford Motor Co in Oakville.

Mr Baird: Okay, great. You're outside of Toronto. I just wondered.

Mr Gay: I'm sorry?

Mr Baird: I wanted to confirm just where you were from. Being from Ottawa, I always like to see a representative sample from the province, so it's great.

I wanted to just touch on the issue of fraud. You mentioned the 55,000 employers—your figure—that, in

your words, are owing hundreds of millions of dollars, and I can certainly share the government's concern with that. Obviously, that's built up over time, and I don't know why the board hasn't taken more successful action in getting that. That'll be something very much that we've heard from a number of witnesses, and we'll certainly relay that concern on, because it's an extremely valid one.

With the issue with respect to the measures contained in Bill 15 dealing with getting tougher with employer fraud, there have been a number of figures used by witnesses: 20,000 employers who have not registered with the WCB. One of the amendments contained in Bill 15 would require employers to register within 10 business days in order to ensure that they're paying their WCB assessment rates. Would you support that measure, and increasing fines to \$100,000 for employers who fail to register? That's similar to what they do for the health payroll tax and with the retail sales tax. Would your union support that measure of increasing fines to \$100,000 for employer fraud?

Mr Gay: It's an interesting concept. I think my union would be in favour of increasing fines, because I think every worker should be covered by workers' compensation.

Mr Baird: Oh, they're covered. That's the problem. If an employer fails to register, the worker's covered still, so all the other employers are paying for their workers. So the worker's covered already. It's the employer that's getting away with not having to pay, which is the problem.

Mr Gay: Let's make it \$200,000 then.

Mr Baird: So you would support those measures then?

Mr Gay: I would support them, sure.

Mr Duncan: In your experience, again, with the Workers' Compensation Board and its treatment of workers versus employers, the bill also contemplates a lot more I think onerous requirements on business as well as employees. Are you nervous that the provisions in the bill around fraud will be directed mostly at workers and not at employers? Is that the position your union is taking?

Mr Gay: I think that historically anything which has been contained within amendments to the Workers' Compensation Act, with the exception of maybe Bill 165, has been directed at the people who stand to lose the most, and I'm talking about injured workers.

Mr Duncan: Has it been your experience that the board has been particularly effective at enforcing its current fines to employers who've—

Mr Gay: Absolutely not. A gentleman just prior to me, perhaps two before me, mentioned the fact that the bureaucracy at the board—I think anyone who has ever dealt with the Workers' Compensation Board, and certainly your assistants in your ridings would be able to tell you this after they've been dealing there for a while, the greatest bureaucracy in the world happens to be at the Workers' Compensation Board, because each department there seems to be an entity unto itself. What I find is there's very little information, very little input from here

to here. It's a little empire, and there's very little talkback between the departments down there. I don't know what people are afraid of, losing their dynasty or their empire, whatever it is, but you cannot effectively administer the Workers' Compensation Act unless you can effectively administer your own house.

The Chair: We have time for one more quick question from the third party.

Ms Martel: Mr Gay, let me ask you a little bit about your sense or your feeling about workers' or their representatives' participation at the Workers' Compensation Board. You will know that under Bill 165 one of the major changes we implemented was to have a bipartite structure because we certainly felt that the representation that could be brought by workers, injured workers and their representatives was as important as the other workplace party, that being the employers. What do you think about the government's unilateral move, which this bill is now justifying, to actually take out that bipartite structure and move back to a multi-stakeholder form?

Mr Gay: When the bipartite system was brought in, I had a great deal of faith that if given a half a chance, it very well could have succeeded. I believe at the July 1995 board of directors meeting, the worker members of the WCB supported a proposal called the financial improvement package, or FIP. The FIP would have generated enough annual savings to eliminate the unfunded liability by 2014, and this was blocked by the employer members because it reduced their ability to manipulate, as I said before, NEER, CAD-7 and second injury and enhancement claims.

It's more political ideology than common sense. I think you have a chance. You have a chance to do something if you feel that the Workers' Compensation Act needs to be fixed, needs to be improved. I mean, don't tear the place down. Don't throw the baby out with the bathwater. Improve it. But think of the people on whose back you're going to improve the Workers' Compensation Board.

The employers already have enough loopholes in the Workers' Compensation Act. I could tell you stories. I'm one person against—many of you may know Les Liversidge. Mr Liversidge has eight full-time people working out of the Ford Motor Co in Oakville—eight full-time people. These guys that spend 50% of their time on compensation problems: God, I wish that was the case in my case, because I've got one person working out of Local 707 on workers' compensation claims and that's me. I spend 100% of my day working on compensation claims. At any given time, I've got 200, 250 up to 300 claims at some stage of either inquiry or appeal. I cannot get sufficient hearing dates to get these people justice. It just doesn't work that way.

The Chair: Thank you very much, Mr Gay. We appreciate you coming in to see us this morning to make your presentation.

Ms Martel: Mr Chair, before we go on to the next presentation, I wonder if I could raise a point of order. It's with respect to some comments the parliamentary assistant made that in fact an injured worker, even if the employer doesn't register, would be covered under WCB. I think there's a clarification that is required, and it would be this.

I won't name the employer, but there was a large, celebrated case that was raised in this House by my colleague from Lake Nipigon. It was not recent, I will give you that, but the case was that the employer of the particular 150 employees did not register himself as their employer; he registered each of them as an independent operator.

When one of them did get hurt, it was found that premiums had not been paid, of course, because the worker didn't know anything about being registered as an independent operator, and did not get compensation, and it was only because this case was raised in the Legislature that in fact there were some moves to get the employer to pay and get the people covered.

I just wanted to clarify that a worker is not automatically covered. If the employer doesn't register, there are some ways and means that they can still manipulate that system.

1200

Mr Baird: I'd like to respond on the record. You let her go on—

The Chair: Well, I don't. It wasn't a point of order, but it's in the record now, so that's fine.

CANADIAN UNION OF PUBLIC EMPLOYEES
LOCAL 1996, TORONTO PUBLIC LIBRARY WORKERS

The Chair: I'd like to move on to the next group, if we can, the Canadian Union of Public Employees, Local 1996, Toronto Public Library Workers. Good afternoon.

Ms Janet Walker: Good afternoon. I'd like to thank the Chair and the members of the committee for the opportunity to appear before you today. I didn't have the privilege of hearing a great deal of the preceding comments. I'm going to try and tailor my remarks a bit.

My name is Janet Walker. I'm president, as you know, of the Toronto Public Library Workers, and I think we could be recipient of the dubious distinction award, because virtually every branch has 50%, or higher, injury rate from repetitive strain injuries. So we have a great deal of concern over the changes that are being proposed not just to the board but to the act. These are real injuries. These are injuries to people and to their lives.

What I want to focus on is the bipartite relationship that we've had for the last four years with the board. It's been the experience of our local that consultation between stakeholders leads to cooperative efforts, which yield a better result than what can be achieved with parties working in isolation. This isolation leads to marginalization, pits the stakeholders against each other and generally causes us to dissipate our energies, and these are energies that I think are better spent in reaching understanding and a resolve of shared concerns.

It's no secret that the current government is pursuing a mandate of cost-cutting and in that course is seeking any number of efficiencies. I certainly respect the current government's mandate to put its own imprimatur and change what it feels should be changed, but I question, as did the previous speaker, throwing out the baby with the bathwater. The concerns that I want to present to you are around the actual savings that will be achieved by returning the board back to a model that we view as adversarial in nature.

As equal partners, labour and management have been working towards their mutually shared goal of reducing injuries as well as costs. I can certainly appreciate that the bipartite approach involved is, if you'll excuse the pun, using a new set of muscles for both parties. But within four years of the board's most recent incarnation, the new claims costs have decreased over 8%, as the previous speaker has said, and the overhead has decreased 8% as well. So there's been a net decrease in costs, even though labour and management still approach their common cause from different viewpoints.

Another example that I want to bring to your attention is that of the corporation of the city of Sault Ste Marie, which in 1991 was hit with a very large pension billing in its WCB costs. A joint committee was formed of representatives of all the unions of the city and management representatives to come up with a solution to lower the costs of workers' compensation. After one year of implementation, the bipartite policy, devised in cooperation, yielded a reduction in cost to the city of \$600,000. The city has been able to maintain its WCB costs at approximately \$900,000 a year, including the increasing costs of the benefits, so that's a very hefty savings.

I guess the main point I'm trying to make is that of the government leading by example. I think that stakeholders in both the public and private sector benefited from the cooperative model structured by the government of the day. In its press release, the Ministry of Labour stated that "Ontario's experience with bipartism has proven that it is not conducive to effective and responsible decision-making," but I would respectfully suggest that there is a lot of evidence that would indicate otherwise. I think it's clear that costs decrease and accountability increases when labour and management come to the table as equals.

So we're very concerned about the move to a multi-stakeholder board. There appears to be a clear conflict of interest for doctors and insurance specialists to participate in decisions that they could direct to their own benefit.

The restructuring will only serve to pave the way for the privatization of the board. I find it very curious that a government seeking increased accountability would endorse measures that would indeed divest itself of control over the public purse. The same holds true of the measures proposed for the Workplace Health and Safety Agency. We believe it would be disastrous to abolish this agency and move backwards to a time when service delivery organizations such as the Industrial Accident Prevention Association, the IAPA, were given millions of dollars to spend. What savings can be had without direct government control and accountability? I know that the Common Sense Revolution has in its mandate less government, but I never heard the mandate of less responsible government.

We would therefore ask that the standing committee revisit those actions which would lead the Harris government to surrender accountability and responsibility for what may appear to be short-term savings and to give reconsideration to working within the existing bipartite board structure. Labour helped to build our province; surely it deserves equal responsibility for the safety of the

workers. As my colleague said to me before I came up, "Make sure you tell them it's the Workers' Compensation Board and Workers' Compensation Act." We have to be players.

The Chair: The questioning this round will begin with Ms Martel.

Ms Martel: I was struck at the beginning of your comments by the number of people within the branches of the library who have repetitive strain injuries. Just given that information—50% I think is what you said—what do you think then of the move that will probably come in Mr Jackson's set of reforms—I use the term loosely—in the spring?

Ms Walker: We're terrified. These are real injuries. These are injuries that are increasing in spite of cooperation between the parties to improve workplace health and safety. Because of the downsizing, the city has been neutron-bombed through restructuring. The work hasn't gone away; it's increasing daily. Our use increase is 500% to 1000% in some locations. No matter how safely you work, if you don't have the staff you're going to continue to be injured. The injuries aren't going to go away. I don't know what will happen to these people. Will they go on welfare? I don't know. I wish I could bring all of them to tell their story to Mr Jackson. I wish he could hear what it's like not to be able to brush your child's hair.

Ms Martel: Let me ask one further question. This is with respect to the bipartite model. The minister was certainly very clear in her remarks that, "The bipartite, labour-versus-management approach has paralysed constructive decision-making on very crucial administrative, policy and financial issues facing the board...." Given that the bipartite board of directors was only in place for six months and given some of the comments that you've already raised with respect to the situation in Sault Ste Marie, do you really think that's a fair characterization of the work that group was trying to do when they'd only been in place six months?

Ms Walker: No, I don't think so. I think you have to run before you can fly. The board was just starting with a new process and I don't think it was given a fair chance. I think that both parties have to adjust to a change in your role. If it's been adversarial for a long time, going into a cooperative structure involves changes on both parts. But all the examples that I've been shown indicate that it was starting to work and I think it could continue to work with modification.

The Chair: I understand that another representative from CUPE would like some portion of your allotted time. We're certainly amenable to that if you see fit. I wonder if you could introduce yourself, sir.

Mr Steve Burdick: I want to thank the previous speaker for sharing her time with me and I want to thank the committee for letting me come on. I'll be quite brief. My name is Steve Burdick. I'm the chair of the library workers' committee in CUPE in this province. We represent therefore, through our committee, about 52 public libraries and about three university and college libraries. We figure that the people we represent directly are about 4,500.

We meet regularly with our committee and with representatives of these various libraries, and one thing that's become very clear to us over the last couple of years is that there is a need in fact to strengthen the workers' protections in the Workers' Compensation Act and not to undercut them. The reason I say that is because we hear throughout the province stories similar to those that Ms Walker laid out before you. The public library system in Ontario is undergoing massive technological change, very significant organizational change and, as I'm sure you're aware, even before Mr Eves's announcements of this past week, budgetary restrictions.

1210

The net result of all that has been an increasing workload placed upon the institutions to provide services and, of course, on the front-line workers to make sure those services happen. Furthermore, with technological change, many of the service adaptations are handled through use of automated techniques. In consequence, the rise of repetitive strain injuries and soft muscle injury claims and problems among our workers has increased, I would be inclined to say, geometrically.

This is not in anybody's interest. Obviously it hurts the individual workers; it hurts the institutions because they have difficulty providing service when workers have to call in sick or go on sick leave or be away for extended periods of time, particularly when these institutions are not in the position to replace these workers in any significant way, shape or fashion; and obviously it hurts the public. It's the public, at the end of the day, that will be hurt if the workers are not protected adequately under workers' compensation. I say that knowing that we represent workers, but I think the reason we represent workers is so that they can do their job with some degree of dignity, but also so that they can provide the public services that the people of Ontario expect and certainly require in this changing economy.

Changes that move in the direction of making it harder for workers to stay on compensation, changes that make it harder for workers to have their claims honoured, changes that move in the direction of diminishing worker input at the management level or the board level of the compensation board are, in our view, shortsighted and will not be helpful to the workers or the people of Ontario.

The Chair: Thank you, Mr Burdick. We have time for questions.

Mr Maves: I'm not trying to make light in any way, but I was rather astonished that you had said 50% of library workers have compensation claims or are injured workers.

Ms Walker: In my workplace it's either a new or a recurring injury, and our experience is that the second occurrence is frequently resulting in permanent injuries.

Mr Maves: I would have assumed that it was a rather safe workplace. Could you give me some examples about some of the injuries?

Ms Walker: Sure. What happened at the Toronto Public Library is that it was an unautomated library system for a long period of time. When automation was introduced, what it did was it put library workers on to

the assembly line. Without criticizing the employer unduly, I think it's very real to say that very few of us knew exactly what we were doing when we first put automation in. We didn't know that to ask someone to go like this for three hours at a time with a light-pen was going to have disastrous results, or that the height of desks and tables was important.

There was some—I don't know how to phrase it—unintentioned neglect there, but employers are trying to take steps to resolve that. It's difficult, though, when you've got the other pressure of increased need and decreased staffing. Those are the types of injuries. They're fine motor movement, from repeating that type of motion, but also static loading in the shoulders. I can tell you that I know someone who has to run water over her hands to get them to uncurl.

Now, as much as people want lower deficits and budget cuts, I have yet to meet a Tory who wanted to hurt somebody, and people say that's not the kind of accountability they're looking for.

The Chair: Thank you very much, both Ms Walker and Mr Burdick.

Mr Duncan wanted to raise another procedural matter or request for information.

Mr Duncan: I had a request for information of the committee. I wonder if we could be provided with information, in terms of both employer and worker fraud about (a) the investigative processes at the Workers' Compensation Board that are currently in place; and (b) the number of investigations against employers versus workers, let's say, in the last three years; and then, finally, the number of times that current maximum fines have been levelled against employers.

The Chair: Are there any other procedural matters? That being our last submission before recess, I'll call the meeting recessed until 3:30 this afternoon.

The committee recessed from 1216 to 1533.

The Chair: I call the committee back to order. Good afternoon all.

COUNCIL OF ONTARIO CONSTRUCTION ASSOCIATIONS

The Chair: Our first deputation this afternoon will be from the Council of Ontario Construction Associations. We remind everyone that we have 15-minute time slots today, and you can use that time as you see fit for either a presentation or a question-and-answer period, but we will be enforcing the 15 minutes. My apologies for the slight delay in getting started, gentlemen.

Mr David Frame: As you mentioned, we're here representing COCA, the Council of Ontario Construction Associations. My name is David Frame, executive vice-president. To my far left is Don Stewart. Don chairs our committee and he represents the Mechanical Contractors Association of Ontario. Also with me is Bob Brodie of Dewar Insulations; he is vice-president of finance.

COCA comprises 48 associations representing various trade and local mixed associations servicing Ontario's construction industry. These associations include a membership representing 8,000 large, medium and small contractors, a list of which is attached to my presentation.

The changes presented in Bill 15 represent a good start towards comprehensive reform of the WCB system. The bill itself is not a comprehensive change, but it does set the table for badly needed overhaul. Key changes in Bill 15 focus on administration and governance so that the board will be prepared to respond appropriately when a comprehensive overhaul is introduced.

On the issue of the board, we strongly support a move away from the bipartite to a multipartite structure. We have not been well served by bipartite structures in the WCB, the Workplace Health and Safety Agency and OTAB and we must learn from these failures. We must develop a system which is not designed around the labour relations model but rather one which will provide strong corporate governance.

When the former government changed the governance structure it declared the Workers' Compensation Board to be the joint property of the employers and the employees of Ontario. It established a bipartite model in which both would have equal representation based on common ownership. In doing so, the government abdicated its responsibility to ensure that the system was operating in the interests of the citizens of Ontario, and we believe these changes go a long way to move it back to where it should be.

The criteria for identifying the best board members should not be whom they represent, but do they bring the right tools to the table; do they provide a background which will be beneficial to the decision-making process? The board must be able to operate as a team. They must have strong leadership and there must be a common vision shared by all board members. Without this, once again, the system will not be given the type of leadership it desperately needs.

In making these changes, however, we must caution that they alone do not represent comprehensive changes to the system itself. We have worked extensively with senior management and members of the board of directors over many years, and time and time again we have found ourselves frustrated in suggesting positive changes that are not possible because bad legislation requires that it be done differently. A succession of WCB chairmen and vice-chairs has said to us, "I agree with what you are proposing but the legislation does not allow us to consider it." We must realize that even the best board will not solve many of the problems without comprehensive changes to the benefit structure.

Legislative changes, not governance problems, have been the major factor in creating our current financial crisis. Let's just quickly look at the record. In 1984 the unfunded liability doubled when the Legislature indexed the act but provided for no means to pay for it, short of massive rate increases. In 1989 the government brought in the dual award system and promised it would be revenue-neutral. In fact, the cost of this system proved to be roughly double that of the old one. Just last year a number of changes were made, including the application of the Friedland indexing formula, which should have reduced costs. Instead, we found that 70% of the benefits were exempted from the formula and that the new subsection 147(4) supplements finally have been costed

at about \$1.5 billion instead of the \$700 million that the government estimated at the time.

This tinkering by government every four or five years has amounted to over \$7 billion of debt added to the system and is a major reason for the financial crisis that the board now faces. We believe this Legislature must accept the responsibility to bring in comprehensive reforms which will provide fair levels of compensation and entitlement but in a manner that the board can manage on a fiscally sustainable basis.

Much of the conflict that exists in the system can be significantly reduced by the legislation being made more specific on key criteria. These will include eligibility, levels of some benefits, terms of payment, requirements for continuation of benefits and termination of benefits. These lack a clear definition in the act, which leads to time-consuming and costly processes of policy development, adjudication and appeals and has produced countless inconsistencies and unfair applications.

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We're going to recommend to you today two small but, we believe, very significant amendments to Bill 15. The future economic loss provision, the FEL component of the dual award system, is about to enter its sixth year. It is still to fully mature, in that the earliest recipients have not had their second review. These are due to begin early next year. The legislation is silent on the issue of whether this review will lock in benefits until the recipient reaches age 65. At this time, the board's intention is to lock in benefits. The cost of this is not yet confirmed in the calculations of the unfunded liability or the assessment rates. If they are locked in, we face an enormous increase to some employers' costs and in the unfunded liability.

The Honourable Cam Jackson's review will address the financial sustainability of this award, but we are very concerned that before the next round of reforms are implemented a significant group of recipients will have these benefits locked in at possibly unreasonably high levels.

We recommend an amendment to subsection 41(2), which clarifies that review number two of FEL benefits will not be considered to be locked in. This will simply allow changes to the FEL to be applied equally to all, should that be the decision.

We are concerned that the bill's proposal to amend subsections 108.1(1) to (3) will require registration within 10 days of becoming an employer. We don't feel this is reasonable. The board is preparing to implement a new registration and review system called RESET on January 1 next year. The board worked for years with employers and systems experts to construct an effective and workable system. It's one that allows employers up to 30 days to register upon them becoming an employer. It recognizes that the employer must produce proof of things such as cancelled paycheques to prove that, yes, they are an employer. It is also consistent with the timing of the board's assessment schedule. The vice-president of finance of the board admitted to us just last week that it would not be reasonable or possible for them to enforce the 10-day registration period. We encourage you to

amend this requirement so it becomes 30 days, or at least to make it consistent with the registration requirements of Revenue Canada.

I want to take a few minutes to talk to you about the relationship between accident reduction and WCB costs that we faced in the construction industry. Much has been accomplished in the last decade to improve construction safety performance. This includes an extensive development and implementation of regulations under the Occupational Health and Safety Act for our industry; increased resources and education, largely provided through the Construction Safety Association of Ontario; increased labour and management cooperation in the development of workplace procedures; and of course the introduction of construction's own experience rating system, called CAD-7. Our research indicates that of all these processes, experience rating has probably had the most significant impact on reducing the industry's accident level.

Early in the 1980s, our industry made a commitment to reduce the number of lost-time injuries. The industry spent a number of years working with the WCB to develop CAD-7 so that it would reward employers for having fewer accidents and lower costs and also would surcharge those who have more. The message is very simple: Safety is a bottom-line issue. Reduce your accidents, you will reduce your WCB costs, and the company's level of profitability therefore will be enhanced.

Experience rating in construction was introduced in 1985, and in that year the industry sustained 15,440 lost-time accidents. Last year, in 1994, the number of LTIs in the industry was off significantly, to 6,374. This is a tremendous accomplishment. Chart A shows that in the first two years of CAD-7 there was no significant change in the accident frequency level, but from 1988 through to 1993 the accident rate has continued to fall every year regardless of employment levels in the industry. As a result, our accident frequency rate has been reduced 62% over that period. We believe it's a significant accomplishment for all those involved.

While our occupational health and safety performance has produced steady improvements, we have failed dismally to use it to reduce WCB costs. Chart B compares construction lost-time incidence versus benefit costs. In 1982, the benefit payments to injured workers paid out were just over \$130 million. By 1992, 10 years later, those benefits had increased to \$452 million, despite a significant reduction in the lost-time accident claims.

To consider the magnitude of this growth, we produced a comparison of the costs on page 10, chart C. It shows that the cost per LTI grew from \$10,813 in 1982 to a staggering \$55,875 by 1992. The board's report on how these costs break down is shown on chart D. It compares the division of costs in the construction sector before Bill 162 was implemented and after it was introduced featuring the dual-award pension provisions.

It illustrates that while most areas of costs, particularly those of short-term compensation, have been reduced, largely because of fewer accidents, the cost of pensions, particularly the future economic loss, and their related

supplements have soared from 33% to 53% of total payments. This has convinced us that the key to controlling costs is to revise the future economic loss provision to make it more efficient in delivering its benefits to the workers who are truly in need. The industry's efforts to reduce costs by reducing the number of accidents have failed, in part because of this growth of the FEL benefits.

Future economic loss was designed to compensate workers with work-related permanent disabilities by providing partial compensation for lost income-earning potential related to the accident. Our five years of experience with FEL show the system does not restrict itself to this and, as a result, has caused significant overcompensation in some areas and driven the construction industry's unfunded liability up by over \$1 billion so that today it is well over \$3 billion.

Very quickly, we believe some of the flaws in this system are:

The law assumes that all full-time workers work a full year. But in construction, seasonal work and high unemployment mean that a 60% FEL award often will pay higher benefits than the average healthy worker will receive in that full year. This is a great disincentive for return to work at a lower level of pay.

The Chair: Excuse me, Mr Frame. I just want to alert you that you've got about 30 seconds to a minute to wrap up, if you could.

Mr Frame: Okay, I'll move through it very quickly.

The Workers's Compensation Act establishes that a worker who has not returned to work one full year after an accident will be assessed for a FEL. This assumes that an impairment caused by the accident has blocked re-employment, but in some industries, such as construction, most are victims of the economic turnaround. FEL has become a lucrative unemployment and retirement fund for thousands of workers, and obviously changes need to occur.

We believe the FEL supplement simply must be overhauled to stop this haemorrhaging, only providing payment for lost-time wages due to the impairment, not for other personal conditions. We understand that the reform of the FEL is not in the intention of Bill 15 but will be a prime focus of the Jackson review. Therefore, we would like you to give a full consideration to the recommendations to change subsection 41(2) so that it's clarified that pensions are not locked in.

Thank you for the opportunity to present on Bill 15, and if there is any time for questions, we would welcome them.

The Chair: I regret that, in the interest of getting all of the 73 groups and people that have requested time to speak, we're strictly enforcing the 15-minute limit. But thank you all for taking the time to make your presentation and offer these suggestions.

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52ONTARIO FEDERATION OF LABOUR

The Chair: The next group up will be the Ontario Federation of Labour. Good afternoon, gentlemen. Would you be kind enough to introduce yourselves for the committee and Hansard.

Mr Ken Signoretti: Thank you, Chairperson. My name is Ken Signoretti and I'm the executive vice-president of the Ontario Federation of Labour. On my left is Ross McClellan, the legislative director.

I just want to make a few comments. First of all, I just want to say that we're pleased to be here and I just want to start reminding the committee that in fact the Ontario Federation of Labour has been deeply involved with workers' compensation for a long time. We've done it because we really believe that there are problems with the system and we want to do the best we can to try to fix it up.

We have a workers' training project which is involved and we've trained over 6,000 participants for compensation advocates. We've participated in all levels of the workers' system, from the board of directors to many committees and subcommittees involved in workers' compensation issues. This, as I said, was done for the sole purpose of helping to create a more just, a more effective system of workers' compensation. We want a system that compensates workers fairly and justly for their injuries and gets them back to work as quickly as possible.

We were making real progress towards that goal of a fair, effective workers' compensation system, and here are some facts I hope you would consider when you pass, or hopefully don't pass, Bill 15.

Fact: The board does not have a debt; it has an unfunded liability. We all know there's a difference. The WCB is not bankrupt. It does not borrow a cent. It has more than \$6 billion in assets sitting in an accident fund. It has an unfunded liability, which is the present cost of future payments owed to injured workers by the employers for present claims. The reason that there is a \$12-billion unfunded liability is because employers have always refused to pay the actual cost of workers' compensation.

Fact: Measured in 1994 dollars, the unfunded liability grew the most during the 1980s when the Progressive Conservatives were in power. In 1980, the unfunded liability was \$398 million. In 1985, when the Tories left office, it was \$5.4 billion. I just want to remind you here—and I was listening to Mr Frame earlier when he talked about 1984—when Bill 101 was passed and they increased to full indexing, 100%, for workers, one of the things that was necessary to do was to also increase the funding level. There was a great deal of pressure from the business community, and at that point the funding level was not put into place, so consequently you had a misbalance. If that funding level had been put in place as it should have been, we probably wouldn't have the trouble or perceived problems that we have today.

Fact: The WCB is better funded today than it was 10 years ago. In 1985, the ratio of assets to liabilities was 31.8%. In 1994, the ratio was 37.4%.

Fact: New claim costs have decreased over 8% in the past four years, from an average of \$2 to \$1.68 per \$100 of payroll.

Fact: The WCB's overhead has decreased over 8% in the past four years, from an average of 49 cents to 44 cents per \$100 of payroll.

Fact: According to its 1993 annual report, WCB devoted 17% of its total expenses to pay for overhead. In comparison, Sun Life of Canada charged 30% and the Minnesota privatized workers' compensation charged 29% against overhead. This year, in 1995, WCB has a cash flow surplus. These are the things you have to think about before talking about privatization.

The fact is that the real abuses at the WCB are abused by employers, and not workers.

Fact: More than 55,000 employers owe the WCB \$430 million outstanding.

Fact: An estimated 20,000 employers which should legally be registered with the WCB and paying their fair share are not registered at all.

Fact: Over 700,000 Ontario workers are excluded from WCB coverage because their employers have been successful in lobbying government to exempt them from the system.

Fact: While employers scream about WCB costs, they've been stripping the funds out of the board through the experience rating scam, because it encourages employers to hide and oppose claims. It is supposed to pay out roughly the same amount in rebates to the so-called good employers as it imposes penalties on the so-called bad employers. In fact, in 1994 the WCB paid out \$280 million more in rebates than it collected in penalties; in 1993, the figure was \$216 million. This is higher than the total amount paid each year for temporary total disability benefits. And it is real cash, not actuarial projections.

Earlier this year, the labour members of the bipartite board of directors, now dismissed, voted to support a financial improvements package which would have eliminated the WCB unfunded liability by the year 2014. It was the employers who opposed it, out of greed to keep the experience rating scam pumping more WCB money into their coffers.

Bill 15 proposes to turn total control of the WCB over to these same business people who have been ripping off the system for 25 years. It is a wrong and foolish policy. It will not work. We urge you to re-establish a genuine partnership of governance for the WCB. Let's get on with the job of creating a fair and effective public insurance plan for the workplace accidents.

I just want to say, I heard Mr Frame earlier when he talked about how we have to restore balance and bring the system back to where it was. If we have to honour the system as it was in 1915—I understand that in 1995 things are not going to work the same, but in terms of the principle of workers' compensation, the whole idea of workers' compensation was a plan which employers paid into and in return for that employees would not sue. It was a no-fault insurance. I think when you do that you get into a bipartite structure because one side is giving to the other in that whole process.

So I would hope, on behalf of the Ontario Federation of Labour and all the affiliates, that you reconsider your position. That's our submission. Ross has given you the whole details. That was just a capsule of what we want.

Mr Ross McClellan: There's an appendix at the second half of the brief which I'd ask members to have a look at. It covers some of the detailed points of the legislation.

The Chair: Thank you. We ended the questioning in the morning session with the third party, so the leadoff will be the government members.

Mr Baird: I'd like to thank you, first, for your presentation today. You've obviously put a lot of time into it, and we all greatly appreciate that and your attendance here today.

Just two or three comments before a question: One of the facts, that the unfunded liability went from \$2.8 billion to \$5.4 billion in 1984-85, that was of course because of the extending of inflation protection which was supported by all parties. Your point, though, on the funding level to the plan never being raised as well, is very well taken. It obviously should have been.

The second comment: With respect to another one of the facts, the funding ratio was 31.8% in 1985. By 1990 it had improved, under the Liberal government, to over 40%, but then unfortunately it started to go down, to 37.4%, as you indicated. So it was actually getting worse historically.

The question I had was with respect to the provisions in the proposed legislation calling for increased fines to businesses. One of the criticisms you I think very justifiably brought forward is the abuses taking place by employers. Do you support the provisions in the bill which levy \$100,000 fines to employers who fail to register within 10 days, as is the case with the retail sales tax and health care payroll tax?

Mr Signorette: Yes, we have no problems with the fines. When we talk about the system, I think you can get around the fines thing. One of the problems that we have when we talk about abuse by employers—and I just want to talk for about a minute, if I can, about the experience rating that Mr Frame talked about, which went down from \$12,000 to \$6,000, or whatever the figures used; I couldn't quite hear. Part of that problem with the experience rating, as we've been saying all along, is—and if you talk to employees, this is what's happened—the experience rating was being abused because employees are being told that in fact it's better for you to go on S and A benefits than workers' compensation. A lot of people are convinced that's the best way, for a couple of reasons. One is that money's in the pocket of employees quicker, and secondly—just for that reason, I guess, alone, that they want to get the money quicker.

The problem with what the experience rating does is that if a person then has a follow-up injury to that and it's not recorded, so then it doesn't show up as a recurrence, part of the problem, we think, is that if you have a true system where employers and employees work together on the whole problem, because we have just as much at stake as everybody else, that will make it a lot better than trying to use an experience rating.

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So you can have \$100,000 or you can have \$500,000 in fines; the reality of it is they don't pay. A good

example was what happened with—the ministry has now backed off with that young man who got killed—

Mr Baird: Mr Kells.

Mr Signorette: Yes, Sean Kells. You backed off, but you backed off after considerable pressure.

Anyway, fines sometimes really don't mean a whole lot. That's the short answer.

Mr McClellan: Could I just say, particularly in the construction field in this city there's a whole army of underground employers who are not registered as employers. They're systematically avoiding compensation benefits. The proof will be in the enforcement, and people are very sceptical about, quite frankly, your willingness to enforce that. You could be enforcing it right now.

Mr Baird: As a newly elected member, I can't speak to why the board has let this problem get out of control over the last number of years. But I guess my final comment would be, your comment with respect to employers not paying the dues that they're supposed to pay is certainly an issue. That's why we think getting tough with fines is important. But your point on enforcement is well taken. These powers have got to be used by the board.

Mr Duncan: The amount in the act and the fine are meaningless; it's enforcement.

Has anybody from Mr Jackson's office asked you for any input on the major changes he's making?

Mr Signorette: Nothing.

Mr Duncan: There's been no consultation at all? None?

Mr Signorette: We've had no consultation with anybody on anything.

Mr Duncan: Written or verbal?

Mr Signorette: As a matter of fact, we tried. Mr Hambley is here. Mr Hambley and I both tried to get a meeting with the minister on this and we were unable to.

Mr Duncan: Ms Castrilli has our supplementary.

Ms Annamarie Castrilli (Downsview): I'd like to turn to another matter which deals with the composition of the new board. As you correctly stated in your brief, it was a bipartite board. That bipartite board came to loggerheads on occasion. This new board, I'm wondering if you have any concerns about how it would be appointed, what input your organization and others would have with respect to that board. Does it concern you?

Mr Signorette: I'm sorry. I didn't hear you. I didn't bring my hearing aid.

Ms Castrilli: Yes, forgive me. I'm suffering from a cold. I'll try and speak more clearly. The government has introduced this new board, the multi-stakeholder board, in order to overcome the difficulty of the bipartite board. I wondered what, if any, concerns you have about how the board would be structured.

Mr Signorette: We like the bipartite structure and we think it worked very well. You made a comment; you said there were some problems and it got into loggerheads sometimes, and it's true. Any time two people with

two different views get down, there are going to be differences. But by and large you can work the differences out.

We have been trying to work the differences out. Mr Hambley and the business council are going to be here a little later on, and I've got to tell you, we had a good relationship with these people. We worked hard, they worked hard, and there were times we had disagreements, but by and large we were able to work our problems out.

As I said, when you get two people who have different views, you're going to get into difficulties sometimes, but I think you can work them out, and by and large we did. We did a lot of hard work. That's why from a multi-stakeholder board, if you're asking me would we want to be on one, I don't know. That's something we haven't talked about. We want to see how the whole thing plays out, but at this point I would say no. I think the best thing was a bipartite structure. We know that it worked.

The Chair: Thank you, Mr Signoretti. That's the end of our 15 minutes, but I appreciate your taking the time to visit us today and thank you for your submissions.

CANADIAN FEDERATION OF INDEPENDENT BUSINESS

The Chair: Our next group up will be the Canadian Federation of Independent Business.

Good afternoon. I wonder if you'd be kind enough to introduce yourselves for Hansard and the committee.

Ms Catherine Swift: Good afternoon. My name is Catherine Swift. I'm the president of the Canadian Federation of Independent Business. My colleague Judith Andrew, who is the director of provincial policy with special responsibility for Ontario, is with me today.

As we don't have a lot of time, we'll try to be as brief as we can. We certainly, as always, appreciate the opportunity to express the views of small businesses in Ontario today. We are, as you probably know, a national organization. We have about 85,000 members, small and medium-sized business members across Canada, and almost half of them happen to be in Ontario, roughly 40,000.

We've been very active as an organization on workers' compensation issues for a very, very long time. We've done fairly substantive research, I guess we'd like to think, over the years. A study we did back in 1987 in fact was a fairly instructive tome and one that interestingly enough, when we read, we don't find too much of it out of whack in terms of the policy recommendations for today.

We've found the issue of workers' compensation has increased as a concern for our members over the years, and there's no question that this tracks the increase in premiums and certainly the well-founded belief that the system is currently well out of control. Despite the fact that we see a decline in the incidence of workplace accidents, we see ever-increasing premiums, so there's clearly a problem here.

Generally speaking, we view workers' compensation premiums as just one more of that area of taxation we refer to as payroll taxes. It's quite a significant body of research, as you may know, that has shown how payroll

taxes, those levied as a percentage of payroll, as workers' comp is, both penalize employees via a reduction in their real wage levels over time and also serve as a deterrent to employment. So we think there's a very good array of evidence to suggest that anything that brings down the level of payroll taxes will be a plus in terms of job creation and also, of course, the overall level of employment in the economy.

We have been very supportive for a long time now of quite comprehensive reform of workers' compensation in Ontario. We support, for example, what this government has already done in terms of terminating the former government's royal commission. We are very supportive, again, of reducing assessment rates by 5%, which has been part of the government's reform plan to date, a reduction in overall benefit levels and the introduction of such things as a three-day waiting period for claims.

This is something that, as you probably know, is working quite well in New Brunswick, and we think the New Brunswick model, as well as others in other jurisdictions across the country, have a lot to guide us, because many of them have been in place for a number of years and have not ended up in any kind of gutting of the system, but have very much enhanced financial accountability and benefits to both workers and employers.

I'd like to now ask Judith to cover some of the nitty-gritty of our recommendations.

Ms Judith Andrew: The next few sections of our brief actually deal with Bill 15. The purpose clause is something we've had a very close look at. We believe that a prerequisite to establishing an enduring board of directors structure is to articulate the vision of the WCB in legislation. Certainly if the board of directors does not understand and agree upon the vision or the purpose of the organization, the differing views of what the WCB is attempting to accomplish will inevitably clash, and this is what we have witnessed over the past few years.

We articulate a vision here in our brief. It contains a concept that is not in Bill 15 and that we suggest be injected into Bill 15, and that is the concept of competitiveness. We believe that element is critical to ensuring that financial accountability is not interpreted by others in the future as the simple exercise of levying sufficient payroll taxes to cover all of the spending, excessive or otherwise, that may be going on. We think it was precisely this kind of thinking, "the spend now, employers will pay later" approach, that resulted in the current situation where Ontario has the dubious distinction of having the largest unfunded liability as well as almost the highest assessment rates in the country. So we would strongly recommend that the notion of competitiveness be injected into the purpose clause of the act.

On the governance model, I just would say briefly that we applaud the move to eliminate bipartism and its structures and replace that with a multi-stakeholder model. We believe that all stakeholders should be represented. Of course small business is one of them but also the non-union employee group as well as the labour interests, big business as schedule 2 employees, and a mix of the different sectors that are affected by workers' compensation.

We believe that professional expertise at the board table will be important so that the right questions are asked of staff before important decisions are made in this very complex area.

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We also believe that it would be important to name to the board a senior government official from a key financial ministry. This we propose in conjunction with a change in reporting to the Ministry of Finance.

We also view governance in its broader context in terms of the board of directors being responsible for the management of the entire system, including all of the organizations funded from WCB moneys. It's our view that the system would never be financially sustainable if outside bodies can spend WCB funds without being ultimately accountable to the taxing authority.

On financial accountability, and of course this mixes in with the governance issues, we believe that accountability to small business taxpayers can only happen via the elected representatives of the people of Ontario. For too many years our concerns were buffeted back and forth between the government and the WCB, with each blaming the other for the problems. We believe that the new memorandum of understanding, which in effect is a contract between the WCB and the government, is a good idea. We support the requirement of value-for-money audits, with the minister determining annually which program is to be reviewed. We believe those audits should be made available publicly on a timely basis.

We would also recommend further measures to bolster financial accountability within the system, things like the WCB board of directors referring policy issues of public or major economic importance to the government for legislative or other action, with a certified actuarial evaluation attached.

We also believe the board of directors should file a detailed budget in the autumn with the relevant standing committee of the Legislature, probably this committee, and justify variances to the committee shortly after the year-end. This recommendation is made on the assumption that the MOU plans and statements would not be publicly available.

We think the WCB unfunded liability should be shown as a contingent liability of the province and that at year-end the WCB actuaries should sign both the rates and the liabilities and report the same to the board of directors and also make them public at the same time.

On the issue of fraud and revenue loss, our members are extremely concerned about the extent of this in the system. We have a total of 79% of our members concerned about abuse of the system. In fact, we published a piece to assist our members in dealing with WCB fraud and abuse in order to help them combat this issue. We certainly support further measures to give the WCB the necessary tools to attack the problem evenhandedly and to a much greater extent.

Our analysis on Bill 15 has us concerned that employee fraud is to be treated with more leniency than employer fraud. In subsections 161(1) and 161(2), for example, the words "willfully" and "knowingly" are used

in connection with employee misstatements. On the other side of things, the revenue loss section, for example, section 156 makes it an offence for an employer who fails to register, without considering whether or not it was done knowingly or willfully.

Certainly with the government's Clearing the Path project there should be fewer situations where an individual registers a business without being aware that he or she should be signing up with the WCB, but there does remain many such situations where employers are genuinely unaware of the requirement. We would argue that it's very difficult for a business owner to discover some years later that they should have registered, only to be in a quandary as to registering at that point and facing several years of back assessments. Accordingly, we recommend a time-limited amnesty in conjunction with an awareness program in order to get all the businesses properly signed up and paying into the WCB.

We recommend several other fraud prevention measures on the top of page 6, and I just want to briefly draw your attention to the key issues that were held over for phase 2 reform which we have strong member positions on.

On the whole area of benefits, attached to the brief is our mandate 160, which shows 91% of our members in favour of limiting WCB benefits so that the employee's original earnings are not exceeded. Of course, when the original earnings are exceeded, this in effect is overcompensation, when the person ends up taking home more than 100% of pre-injury income. This is financially unsustainable.

We recommend eliminating top-ups, revisiting the Bill 162 retirement pension issue, scaling back the future economic loss awards that have turned out to be far more costly than even the most generous costings that were done before Bill 162 was passed and looking at and dealing with the overcompensation in Bill 165. Catherine mentioned the waiting period. We believe that would be an important part of the reform, and our mandate 168, attached to the brief, shows 81% of our members in favour of such a waiting period.

We also attach some suggested legislative language for limiting entitlement in stress to work-caused events, and that's enclosed at the back of the brief.

I just would say in conclusion that our small and medium-sized firms are looking forward to the promised reforms, both the phase 1 and the phase 2, to follow Mr Jackson's review. Once those take effect, they will certainly provide early positive results for the WCB system and for Ontarians generally.

The Chair: Thank you. The speaking rotation will start with the third party this time. I beg your pardon. The OFL didn't have any questions. I stand corrected. You're up, Mr Duncan.

Mr Duncan: Your members have consistently expressed their concern about paperwork and the paper burden associated with government, specifically section 17 of the bill, section 108.1 of the act. Are you not concerned that that section could possibly create an additional paper burden on your members, that historical-

ly you've spoken very strongly against these kinds of things?

Ms Andrew: You're speaking of the notion of registering within 10 days after becoming an employer?

Mr Duncan: Not only the registration, but subsection 108.1(2) of the act, "When registering and at such other times as the board may require, an employer...." It strikes me that if we give legislative effect to these types of changes, your members could be faced with a considerable paper burden that they don't presently have. I'm curious as to why you haven't addressed that issue. You addressed that issue in a number of other forums in the past.

Ms Andrew: Employers are currently required to register when they have employees.

Mr Duncan: No, again, in subsection (2) and also in the offences section—I envision a situation where when the officials at the board get a hold of these legislative changes, the kinds of paper that they could impose on members of your organization could be very onerous. You've been very forthright and candid in the past about your concerns about red tape. Wouldn't you share our concern that possibly the red tape associated with these changes could be more onerous than, say, the corporate filing?

Ms Andrew: I would certainly think that the notion of doing it within 10 days might be impossible, certainly for small businesses, probably for the WCB as well.

Mr Duncan: You would acknowledge, then, that these are a very onerous paper burden?

Ms Andrew: Paper burden issues are always a concern for us. Obviously, in some instances it's a necessary evil, but we are supportive also of the Clearing the Path effort to make sure that registrations kind of happen in a one-window effort.

Mr Duncan: Have you been consulted by Mr Jackson yet on his reforms?

Ms Andrew: Only in a preliminary way. I understand Mr Jackson is going to release a discussion paper.

Mr Duncan: So you have been consulted. What form was that preliminary way?

Ms Andrew: We have requested and had meetings with staff to discuss various issues.

Mr Duncan: So you have had the opportunity meet with his staff.

Ms Andrew: Yes.

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Mr David Christopherson (Hamilton Centre): I have to confess, there's so much I fundamentally disagree with I wasn't sure which question to ask, because I'm likely to only get one. So we'll just start at maybe the largest piece.

I still have a great deal of difficulty understanding those who disagree with the bipartite system, given that the WCB was originally a pact, if you will, a public social pact between employers and employees in terms of employees receiving compensation for lost wages and benefits if they're hurt on the job through no fault of their own, while employers are saved from any kind of lawsuit.

That was the original pact, and I really would like you to help me with this. Why, if that's the case, would it be so unacceptable to small business people that workers would then have 50% of the say in the decision-making—not more, not less, but 50% of the say in that decision-making—if it was an equal partnership when it was first brought in in 1914?

Ms Andrew: I think if you go back to the Justice Meredith inquiry, the involvement was also on the part of government. This wasn't a deal that employers just made with labour—

Mr Christopherson: But the government provides the legislation.

Ms Andrew: —but government was involved there and, as you notice in our brief, we recommend that the government take an important role and be quite accountable for this system.

We think employees should have good representation at the board table, but that would not be exclusive to organized labour. There's a large non-union contingent out there that has been disfranchised for many years for not having any representation at the board table, and we think the process should be more open than that.

We also believe that professionals should be named to the board, public-minded people who have special expertise, for example, actuarial, medical and so forth, who would be able to help elicit the right kinds of information for the board to make decisions. This is not an area that people can get up to speed on in a short orientation. It is not quite like the normal board that people sit on, and that's why we believe that it should be a multipartite effort.

To get right at your question, the bipartite approach didn't work. We've had a couple of examples of disasters with the bipartite approach, the most notable being the Workplace Health and Safety Agency.

Mr Christopherson: Oh. I fundamentally disagree with that so much. Jeez.

The Chair: You were right in your expectation; you only have one question.

Thank you very much. I'm afraid we've used up the 15 minutes. Thank you for taking the time to make your presentations.

BUSINESS STEERING COMMITTEE

The Chair: Our next group up is the Business Steering Committee. Good afternoon, ladies and gentlemen. I wonder if you would be kind enough to introduce yourself to the committee and to Hansard. Just as a reminder, we're keeping a strict eye on the clock today to try and get all 73 deputations in.

Mr David Hambley: Good afternoon. My name is David Hambley. I'm vice-president of human resources at Noranda and chair of the Business Steering Committee. With me today are Dr Albert Cecutti, vice-president, environmental services at Falconbridge; Laurie Harley, manager, government relations at IBM; Dale Kerry, vice-president of human resources at Jannock Ltd; and Charlie Ryan, manager of government relations at General Motors.

As background, the Business Steering Committee was

formed in 1993 to support the business members of the Premier's Labour-Management Advisory Committee or the PLMAC, as you may know it. The business community united behind the issue of workers' compensation reform establishing a process that gathered input from over 200 small and large companies and associations. A well-researched document was prepared and presented to the government. Many of the recommendations contained in that submission form part of Bill 15. Other key issues will be studied by Minister Jackson, and we will be active in that review as well.

We are pleased with the direction the government is taking in reforming the workers' compensation system and encourage them to continue their efforts.

My comments first address the purpose clause. The purpose clause as proposed is a major improvement to the current wording in the act. It will require financial responsibility and accountability on all aspects of the system.

However, it doesn't go far enough to address our long-standing concern about the long-term financial viability of the system. As written, the purpose clause sets out the services the act provides and then requires the accomplishment of those services in a financially responsible and accountable manner. We think we need something stronger if it is to be of assistance to the government in restoring financial sustainability. We suggest a change to the opening clause as follows:

"The purpose of this act is to prevent workplace accident and illness and reduce the overall cost of work-caused injuries and illnesses to workers, employers and the citizens of Ontario, to ensure the long-term viability of a fair, effective and affordable workers' compensation system in Ontario, and, in doing so, accomplish the following in a financially responsible and accountable manner."

We suggest that points 1, 2, 4 and 6 should not be changed, but that point 3 should read:

"To facilitate the provision of rehabilitation programs to restore the workers' condition of employability and programs to facilitate the workers' return to work."

We think it is very important to distinguish between employability versus employment. Rehabilitation should not be a substitute for lack of employment.

We suggest point 5 should read:

"To prevent or reduce the occurrence of injuries and occupational diseases at work," we would add "through financial incentives to employers."

We certainly support the use of experience rating in the act for encouraging and promoting prevention programs.

On governance: We fully support the general direction of a multi-stakeholder board. However, we have several suggestions to ensure the success of this model.

We believe the government controls the system in three ways: setting out the broad parameters of the system; appointing the board of directors and approving hiring of the chair and the president; using a memorandum of understanding which clearly defines the roles of

government and the WCB.

Consistent with this control, we have the following comments regarding governance.

On policy direction: While giving the minister the ability to provide policy direction without restrictions is sound policy in the short term, we suggest that with the new governance structure in place the minister should be much less involved in the longer term.

While we have every confidence in Minister Witmer, we are concerned that the minister applying policy directly may undermine the independence that should be in place for the WCB to function effectively. We are also concerned that this may expose policymaking to political pressure in the Legislature in the longer term.

For these reasons we recommend that the minister's ability to issue policy be limited to no more than 12 months—six would be ideal—providing the necessary direction and support for the new board.

On the issue of appointments: We support the multi-stakeholder model. The involvement of very senior stakeholders, including people from workers, employers and the community, committed to achieving the goals of the act, is essential.

Directors should be representative from, rather than of, their respective communities. Directors must be appointed based on skill and not affiliation.

We continue to have concern that appointments will be made more on a representative basis than on skill. It is critical that the directors bring with them the skills inherent in running a multi-billion-dollar organization.

The chair should be part-time, although in the shorter term, until a new CEO or restructuring officer, as we prefer to call him or her, is able to turn the WCB around, it would be appropriate to have a full-time chair. Eventually we think that the chair should be recommended to the government by the board of directors.

It is important that the board have the full authority to monitor the president's performance and take corrective action as required.

On WCAT: Employers continue to be concerned about the role and powers of WCAT. Decisions of WCAT have resulted in a major expansion of entitlement to benefits with almost total disregard for the system's ability to pay. We believe immediate action is necessary.

Although WCAT is part of Minister Jackson's review, it is not likely that we will see any legislation until early 1997. We are concerned about this interval.

Powers of WCAT should be limited through the bill; otherwise it can continue to undermine the effectiveness of the board and its policymaking role. WCAT should rule only on whether the WCB has applied its policy correctly and not on the correctness of the policy.

Restricting WCAT's ability and powers to interpret the law would require a minor change to section 86 of the act, as I understand it, and is consistent with the government's overall objective. For example, what would the government do if WCAT overturned a government-initiated policy directive? WCAT decision-makers in the past have been both independent and creative. That

concerns us quite a bit.

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I'm also of the view that the chair of WCAT should have responsibility to the chair of the WCB. Also, he or she should attend board meetings only at the invitation of the WCB chair.

On the issues of fraud and abuse: We fully support these measures and the value-for-money audits.

Regarding the registration of employers, government may wish to consider a revenue amnesty for back assessments prior to, say, 1995 and allow a six-month window for firms to come forward before implementing the changes.

Government and WCB also need to consider the critical importance of communication and information with businesses that are newly established. Many firms that do not register with the WCB may be unaware of their obligation.

Workers' compensation fraud and abuse should not have any special immunity from prosecutions.

Bill 165 issues:

On the experience rating: In particular, Bill 165 put in place changes to experience rating in section 103 which changed these programs from results-based to process-based programs. To ensure the continued success of experience rating, and until the longer-term study is complete, we urge the government to rescind subsection 103.1(3) of the act.

On return to work: Requiring the workers' consent for the release of information surrounding return to work has imposed barriers in the return-to-work process. To ensure the effectiveness of return-to-work programs and efforts of employers, we recommend this requirement be removed from section 51 of the act.

On permanent partial disability supplements, or section 147: Bill 165 provided an additional \$200 per month to about 40,000 people who were in receipt of the subsection 147(4) supplements. This added \$1.5 billion to the unfunded liability.

The purpose of the original supplement was to bridge injured workers who were not likely to benefit from vocational rehabilitation with a monthly benefit equal to the old age security benefit until age 65. Bill 165 gave an additional \$200 a month per life, which was not the intent of the supplement.

We are not sure if Minister Jackson will include this issue in his review, but with approximately 40,000 people currently receiving the benefit, the more time passes, the more difficult it will be to amend it.

Also, the WCB interpretation regarding subsection 147(4) awards added \$350 million to the unfunded liability in 1994 and should be reviewed immediately.

Some of the options: Review the process to determine individual needs for the \$200 per month; cut the \$200 per month off at 65 because OAS starts then, and this was supposed to be a bridge up to the commencement of old age security; allow WCB to cease payment of the supplement at times of review, at 24 months and 60 months, where appropriate.

Mr Chairman, thank you for allowing us the time to

present our recommendations.

The Chair: Thank you for your comments. Questions will start with the third party.

Mr Christopherson: I was interested in your, and other employers', comments on the experience rating system. All the employer groups are praising it. Given the fact that, as I understand, the policy principle is that it should not be paying out more in rebates than it collects in penalties, and we know that in 1994 they paid out \$280 million more in rebates and in 1993 it was \$216 million more in rebates than in penalties, and given that clearly your priority is the fiscal status of the WCB, how do you reconcile wanting fiscal accountability to be the top priority and yet continuing to endorse a system that is clearly benefiting employers at the expense of the unfunded liability and other operating costs, given that it's running at a deficit, actually, the way it's been carried out in the last couple of years? Can you explain that to me, please?

Mr Hambley: The only way I can answer that is to say that the employer community has been saying for quite a few years that the rating system needs to be reworked. I don't think I can comment any further on that. We know there are problems with it and it needs to be fixed.

Mr Christopherson: Sorry, but reworked in what way, though? How would you suggest it?

Mr Hambley: We need to study it and find a way to properly put in a rating system that's fair to everyone.

Mr Christopherson: Even if that had the effect of lowering the rebates, even in the formula that employers would receive, you'd support that?

Mr Hambley: Some people will have their premiums increased and some of them decreased, but the way the system is now, it's not fair to everyone.

Mr Christopherson: But if you're going to net this out, then obviously the decrease part would have to be pretty substantial, if now you're saying some people may even get more money in a rejigged formula than exists now. So you're still supporting the idea, though, that this needs to be brought in line and that some employers are not going to receive nearly as much money as they now do. Is that correct?

Mr Hambley: You mean, not pay as much money as they now do.

Mr Christopherson: No, receive—in terms of rebates.

Dr Albert Cecutti: The only thing is that we believe that it should be balanced. We've said for some time that the intention is that this should equal out, and if it's not equalling out, then there has to be a system that would do that. It's very simple, and the employers have been saying this for some time. They believe that experience rating does work, period, and that it just shows that it has been an effective method of improving their accident statistics. Therefore, it has to be there in some way. We believe this. If there's an imbalance, then it has to be looked at by some other method. I know that some business communities have put in several suggestions on how this could be rejigged—the actuaries have spoken to

them—to make it more fair.

Mr Christopherson: I understand that this has been pursued in the past and, each and every time there was a rejigging of the system, someone within the employer community would feel that they're receiving a particular hardship, and from their point of view they could make that case. Are you suggesting, though, clearly going on the record that regardless of the cost to employers this needs to be brought into balance and there would not be more money going out in rebates that is received in penalties? Is that correct?

Dr Cecutti: I won't go on the record, no, not what you just said. I said that we are in favour of experience rating and that it has to be fixed in some way to make it more equitable. I don't know that you could ever, say, guarantee that it would be balanced. It may not, but that would show up eventually in the rates.

Mr Christopherson: In this particular case, then, fiscal accountability is not necessarily the absolute top priority?

Dr Cecutti: I'm sorry?

Mr Christopherson: I'm just having some trouble understanding. If the fiscal requirements and needs of the WCB are the absolute priority driving the business community position, by and large, and yet they're also supporting one of the key elements within the WCB that gives a greater benefit to employers over and above what the policy says, then it would seem to me that you should be quite comfortable saying: "That has to be fixed. It has to balance the way that the policy is meant to." I would just offer, with great respect, that if you are not comfortable to say that, it does a great deal of damage to your argument that the fiscal accountability has to be the driving force of reforming WCB.

Dr Cecutti: No, I think you're incorrect in making that assumption. I think that what we're saying is that the whole board has to be accountable. Experience rating is one of the tools that has to be addressed. You've misinterpreted what the whole intent is. The intent is that the whole functioning of the board has to be financially accountable and run more effectively, but we still want experience rating as part of the system, and you can't take it out of context of the whole board.

Mr Christopherson: That's interesting.

The Chair: That more than uses up our 15 minutes. Thank you very much for taking the time to visit us today and preparing your presentation and brief you left behind.

BUSINESS COUNCIL ON OCCUPATIONAL HEALTH AND SAFETY IN ONTARIO

The Chair: Our next group up will be the Business Council on Occupational Health and Safety in Ontario. Good afternoon to you. I wonder if you'd be kind enough to introduce yourselves to the committee and Hansard.

Mr Mark Gabinet: Good afternoon, Mr Chairman and members of the committee. My name is Mark Gabinet and I am the director of safety and environment for BICC Phillips Inc. Accompanying me today is Dawn Janveaux, who is the director of health and safety for Cuddy Food Products Ltd. We are here as representatives

of the Business Council on Occupational Health and Safety in Ontario, an employer organization to which both of our companies belong.

The business council was established in 1991 and is now comprised of 27 companies, the names of which are shown on the page following the cover of our brief. The mission of the business council is to support the development of public policy in the areas of occupational health, safety and workers' compensation which is both protective of individuals and consistent with economic competitiveness. To this end, we have supported programs of policy research and published a variety of reports and commentaries on health and safety policy matters. Our members have also worked actively with this government, as well as the with the previous NDP and Liberal governments, in the pursuit of our objectives. Currently, one of our association's directors, Ms Mary Roy, is a business representative on the ministerial review team respecting the Workplace Health and Safety Agency.

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We are pleased to have this opportunity today to provide the standing committee on resources development with our views on Bill 15. The reforms set out in the bill are most welcome by our members and long overdue. We are generally supportive of the bill, although we do have a particular concern and objection relating to one provision which appears to have the effect of giving quasi-regulatory powers to employer accident prevention associations created under the authority of section 135 of the Workers' Compensation Act. This matter will be the starting point of our submission. We also wish to use this opportunity to suggest further enhancements to Bill 15, as well as broader system reforms.

I will begin by addressing the matter of offences under the Workers' Compensation Act. In a prior submission to the Minister of Labour, dated September 26, 1995, we recommended that the act be amended to create a series of strict liability offences with a view to facilitating prosecution for fraud or system abuse. This is clearly the case in Bill 15, and we are generally supportive of the provisions.

However, we do have a very serious concern over subsection 154(2), which reads, "A person who contravenes a rule of an association formed under subsection 135(1) that has been approved and ratified as provided under subsection 135(2) is guilty of an offence." In referring to subsection 135(1), we see that the association in question is an accident prevention association, such as the Industrial Accident Prevention Association, the Construction Safety Association or any of the other employer accident prevention associations formed under subsection 135(1).

Therefore, subsection 154(2) effectively gives the accident prevention associations, which are supposedly non-governmental and non-regulatory organizations, regulatory or law-making authority by virtue of the fact that any rule they create would be one which an employer would be compelled to conform with under threat of penalty and prosecution under subsection 154(2).

This is troubling to our members for many reasons.

First, these accident prevention associations are not competent to function as lawmaking bodies. They are not structured, administered or otherwise equipped with personnel, expertise or processes necessary for creation of law or public policy. Nor do we believe they should be. Moreover, since many of these accident prevention associations are independently governed not-for-profit corporations under Ontario statutes, neither the WCB nor the government can expect to exercise control or direction over the rule-making activities of such associations.

Second, conveying such powers to safety associations would create an obvious conflict of interest. Currently, the accident prevention associations are essentially service providers. They provide training and consultation services, often for a fee, despite the fact that these services are already paid for through employer WCB assessments. It would seem, therefore, that these associations could face the tremendous temptation to create rules which would, as a direct or indirect effect, compel employers to utilize the associations' fee-for-service offerings.

This is not an improbable scenario. During the era of the Workplace Health and Safety Agency, a similar conflict of interest arose due to the agency's authority both to set standards for certification of joint health and safety committee members and to control the delivery of training to achieve such certification. Predictably, the agency created standards that called for several weeks of core training, which might still be followed by several weeks of sector-specific training; then set a price to such training; and then decreed that only they and their health and safety delivery organizations, that is, the accident prevention associations, could deliver such training. In fact, this tendency to create standards to create work seems, from our perspective, to have been a pervasive mindset at the agency prior to the election of the current government.

If subsection 154(2) survives, you should anticipate an unprecedented frenzy of association rule-making and a degree of discontent in the employer community that will make the past relations of employer groups to the Workplace Health and Safety Agency appear cordial by comparison.

Please don't misunderstand our position. We are not opposed to the creation and legislation of health and safety standards. It is simply that we believe this to be the proper domain of the government, not the WCB nor the accident prevention associations.

As a fourth and final point, the policy aim of subsection 154(2) is unclear. Is the government seeking to delegate its role and responsibilities for lawmaking and standard-setting in the area of workplace health and safety? This raises questions respecting the role of government in lawmaking and enforcement, and it also raises concerns over due process. Laws are made by governments, under the authority of elected representatives. Acts require the assent of the Legislative Assembly and regulations require the approval of the Lieutenant Governor in Council. These processes are not accidental but have been designed deliberately to provide opportunity for public input.

By comparison, we might ask where public representation and accountability can be found in the rule-making process envisioned by subsection 154(2). The answer is that public representation and accountability are absent. Subsection 154(2) undermines the role and responsibility of government and extends to non-governmental bodies a variety of powers to which they are not entitled.

Finally, with respect to subsection 154(2), we wish to express our disappointment and puzzlement that this was not a matter on which the government chose to widely consult prior to the introduction of Bill 15.

For these reasons, we strongly recommend that subsection 154(2) be excised from the bill.

I will now turn to the matter of governance of the Workers' Compensation Board.

Like many employer groups, we have shared the view that the board's prior bipartite government model was ineffective. Therefore, we are supportive of the move to a multi-stakeholder board. However, this alone provides no assurance of remedy for the paralysis and dissention that characterized board governance in the past. We believe it is critical in reforming the governance system of the board to focus on the duties assigned to members of the WCB board of directors and the skills needed by persons serving in that capacity.

We support the inclusion in Bill 15 of a provision to give WCB board of directors an explicit and clear mandate, concerned solely with the good governance and financial stability of that agency. Moreover, we believe that the act should provide for the creation by the board of directors of its own rules of conduct and guidelines respecting conflict of interest. The objective of these rules and guidelines should be to clarify for all members that their fiduciary duty lies with the WCB, and that although they may be selected as representatives of a particular segment of society, they are not to act as *de facto* lobbyists for the interests of that segment. Our goal in recommending this is to see the WCB board of directors freed of the narrow and self-interested partisanship that played so large a role in its dysfunctionality.

Similarly, we support the inclusion of a clear statement of the specific authority of the board of directors, which in our opinion should be limited to the establishment of operational policy, policy interpretation of the Workers' Compensation Act, direction of senior officers, and the hiring and firing of the WCB chief executive officer.

More importantly, we believe that members of the WCB board of directors must be selected on the basis of merit and with a view to constructing a board having expertise suited to the operational needs of the WCB. Collectively, the board of directors should possess experience and knowledge in areas relevant to the effective and efficient operation of the board as a loss-insurance system.

Specifically, we believe this to include expertise in the following areas: disability, health and life insurance; financial and actuarial science; customer service; occupational accident prevention; information systems technology and management; labour market economics; and health care administration.

We also believe there to be merit in having board positions occupied by one or two representatives who are chief executive officers of successfully operating workers' compensation systems in other Canadian jurisdictions or of a large private sector disability or health insurance provider.

On a final note concerning governance, the board of directors should not be composed with a view to balancing the representation of political or economic stakeholders. Should this happen, the board of directors will once again primarily be a forum for fractious lobbies. To the extent that the government considers there to be a need for stakeholder representation as such, the employer and labour representatives should occupy minority positions. In short, neither political affiliation nor representation should be dominant factors in the appointment of directors.

1650

I will move now to the subject of financial accountability.

We strongly support the inclusion in the Workers' Compensation Act of the proposed purpose clause which speaks to the importance of maintaining the financial integrity of the system. However, if this is to be more than merely symbolic, it will be necessary for the government to define in legislation the financial parameters which constitute financial integrity.

Specifically, we believe the act must eventually stipulate the empirical financial parameters that the WCB should strive to achieve and maintain. For example, federal and provincial insurance legislation governing private insurers often stipulates specific financial conditions and ratios—such as reserve levels, degree of full funding and constraints on investment policy—which must be maintained. There is no apparent reason why similar legislation should not govern the financial management of the WCB.

Similarly, we believe there to be merit in giving consideration to legislative limits to the level of operating deficit the WCB may incur in any fiscal period. This is conceptually no different from the discipline imposed by provincial legislation on municipal governments and school boards.

With respect to the value-for-money audits, we strongly support legislation to require such auditing on an annual basis. Moreover, we believe it is essential that this extend to all organizations and agencies which are funded by the board.

It is not, however, sufficient in doing such auditing to simply look at issues of efficiency and utilization of resources. It is essential that the scope of evaluation be sufficient to assess the extent to which WCB policies and programs are effective in achieving their goals. This should extend particularly to the accident prevention policies and programs of the board and the accident prevention associations funded by the WCB.

Accordingly, it is our recommendation that in addition to value-for-money auditing, the act be amended to require periodic external evaluation of policy and program impact and cost-effectiveness.

We congratulate the Minister of Labour and her government for taking this important next step to correct the many problems plaguing the WCB system. Recognizing that future changes are required, we wish to close by highlighting those issues we believe must be addressed as part of system reform, either within the context of Bill 15 or thereafter. However, in the interests of time, I leave these issues for your reading and due consideration.

We appreciate having this opportunity to present our views to you and the committee and we would be pleased to address any questions you may have.

The Chair: I'm afraid we've used up the full 15 minutes, but we appreciate your leaving us the other points there. I can assure you they'll be considered prior to the clause-by-clause debate. Thank you very much for taking the time to come and address us today.

CANADIAN UNION OF
PUBLIC EMPLOYEES, ONTARIO

The Chair: Our next group up is the Canadian Union of Public Employees, Ontario. Good afternoon. I wonder if you would be kind enough to introduce yourselves to the committee and to Hansard.

Mr Ralph Carnavale: My name is Ralph Carnavale and I'm the workers' compensation specialist for CUPE in Ontario. To my right is Mr Bill Harford, who is the chair of the workers' compensation committee for CUPE in Ontario, and to my left is Ms Yvonne Carr, who's president of Local 1750, who are the employees of the Workers' Compensation Board for Ontario.

First of all, let me say that we welcome the opportunity to address this committee today. The Minister of Labour sought input on several fundamental changes to the Workers' Compensation Act during August 1995. Although given a short time frame, we submitted a response to those and anticipated full consultation and full participation. It's therefore with great disappointment that we're here today, appearing that it is debating a bill which in our view is completely unnecessary and a bureaucratic disaster.

We wish to address the following proposed areas of change: offences and penalties; financial viability; overpayment; and the Workers' Compensation Board employees. We must point out that we do not want this interpreted as support for the other sections of the bill, but rather it's the sheer irresponsibility of those particular sections that is difficult to accept.

Under offences and penalties, we are going to turn Workers' Compensation Board employees into compensation cops or, at best, collection agents. These new responsibilities are to be introduced without regard to the number of changes currently imposed on board staff as a result of both Bill 165 and the new appeal structure, just to name two.

It will now force workers, unions, advocates and employers to purchase expensive liability insurance as protection against civil actions. And let us say to you on the record today that the Canadian Union of Public Employees will in every effort recommend to every one of its members that should they be denied workers' compensation, they should seek out legal redress in the

courts for all injuries not being paid for by the Workers' Compensation Board. It is our opinion that once having been denied workers' compensation, every employee in this province has the legal right to civil recourse, and it will be our position to recommend to our members such action. If the employers in the province feel they are going to save money, let us assure you that the litigation in this province will do anything but save them money.

We ask you what is meant by "material change." What is the purpose of increased fines and/or imprisonment when currently some 55,000 employers owe approximately \$400 million in unpaid fines and assessments? How do you collect that money? I've heard the business community say, "Give them amnesty"—this from an organization or groups of organizations that say they want financial accountability. So let's give up \$400 million, let's take \$400 million a year out of the investment fund because the general fund isn't making enough, let's not have employers pay their share. And this is financial accountability?

We've heard comments about NEER, experience rating and SIEF. The bill does not address the problem of companies that walk away from past compensation debts simply by changing their names and continuing to operate under a new company, without any penalty for experience. Bill 15 does nothing to address this serious loss of revenues. Simply by changing the name of a company, not even their address, there is no review of their experience under past names, past history, past experience. But we hear the business community saying, "Experience rating is working." Some 22,000 companies are not registered, but "The system is working."

We further submit that if fraud exists, then the compensation board simply needs to proceed under the Criminal Code. The board policy on fraud, which we have attached at appendix I to our brief, properly addresses these situations. We fail to see the need for further duplication of authorities created by this bill.

Under the financial liability, it is our submission that in 1994 the board paid out \$280 million more in unplanned rebates to employers than it imposed as penalties. This payout was an increase of \$64 million more than that of 1993. The average rate of assessment for employers has been decreasing since 1991, and the 1995 average rate is that of the 1988 levels. In addition, when the impact of the experience rating off-balance is taken into account, the real average declined even more. It is now approximately \$2.70 per \$100 of payroll, compared to more than \$3.10 per \$100 of payroll in the early 1990s. That is a decrease, not an increase.

Although average assessments for employers are continuing to decline, the board showed an operating surplus of \$130 million in 1994. This was the first surplus in 14 years.

It is the province's employers who did not wish full funding. It is this province's employers who said they would rather have the money which would go into full funding to be used for job creation and investment. If this government is true about its fiscal accountability and financial accountability, then simply increase the funding to 100%. That will give you full funding, that will

eliminate your unfunded liability, that will make the employers pay their true share; not 37%, not 31%, but 100%.

1700

In the fall of 1995, the Minister of Labour hinted at a 5% reduction in assessment. The business community here today has said to you they applaud it. If the board is in financial crisis, why would the government incur what has been estimated as an additional \$120 million per year in loss of revenue by allowing a 5% assessment reduction, added to the unfunded liability?

The compensation board is currently removing \$400 million annually from the investment fund. The absence of any repayment system in this bill, at the very least, is troublesome to us. There has been no mechanism introduced anywhere for that \$400 million a year to be paid back into the investment fund. Where are the moneys coming from and how does this reduce the unfunded liability?

It appears to CUPE that this bill will encourage companies to join the underground economy or force them to close shop in the province.

Under overpayments, the current policy provides a thorough method of recovery. It incorporates recovery from future payments to injured workers and employers. Civil action for recovery is also included. The current policy is in line with any other government agency or civil law system.

We urge you to review the submissions and appreciate the submissions from the front-line workers, the employees of the WCB. We have attached their royal commission submission and hope that you take the opportunity to review it.

In conclusion, it is our submission that this bill is unnecessary at this time. The government had, and in fact still has, the opportunity to learn from the royal commission. Allow them to report. If that's unacceptable, release the report of the royal commission for public debate. Don't keep it in a library. Release it to the public. Let the public decide what the royal commission has said so far.

In summary, this bill will not do what the government intended it to do. It's going to criminalize the Workers' Compensation Act. It will create a greater level of distrust and fear among all the stakeholders. It will chase away business from Ontario. It will not reduce the board's unfunded liability. It will not reduce fraud. It will not reduce premiums or cost.

We urge this committee to withdraw Bill 15 and hold full and public hearings.

We wish to leave you with one final comment. We would like you to consider the vision statement of the Workers' Compensation Board: To be a Workers' Compensation Board valued and respected by workers, employers and the people of Ontario. We urge this committee to meet that vision.

The Chair: Thank you, Mr Carnavale. First questioning this time, government members.

Mr Carroll: Did I hear you right, that you suggest, if we want to cover the unfunded liability, we look at 100% funding by employers?

Mr Carnavale: The funding ratio currently is 37.8%. We have suggested and the labour movement has suggested for the last 10 years that it be fully funded, yes.

Mr Carroll: We currently in the province of Ontario have the second-highest assessment rates of all the provinces in the country and you're recommending that we triple that already excessive rate to cover the unfunded liability?

Mr Carnavale: Let me ask you which rate you're talking about—the \$3.10 rate or the \$2.70 rate?

Mr Carroll: I'm talking about the rate that covers 37%, according to you.

Mr Carnavale: We're suggesting to you that all of the employers pay their ratio.

Mr Carroll: So you're recommending we triple the rate, which is already one of the highest in the country?

Mr Carnavale: We didn't say "triple," no. We're recommending that the plan be funded, simply as you would with any insurance plan, as you would with any long-term disability plan, as you would with any sick leave plan, as you would with any other type of coverage that you would have for income protection.

Why would it be any different for the WCB to be funded than it would be when you buy sickness and accident benefits, or you would when you buy from London Life? Why should the premiums be any different, why should the funding be any different?

Mr Carroll: Okay. Second issue: You say that CUPE believes that this bill will encourage companies to join the underground economy and close up shop. Would you like to elaborate on that a little bit?

Mr Carnavale: Simply put, if you continue to go with this bill, you're going to criminalize the bill. You're going to say to people—and we don't understand what material change is. The government has introduced a concept of material change. We don't know if that means that every time an injured worker becomes pregnant, that's a material change. If they declare bankruptcy, that's a material change. If they change their address, that's a material change. We don't know what that means, but what it will do is have all the companies that are worried about or scared about how they report, when they report or whether or not they should report, they simply won't do it and will hide, as the 22,000 are now.

Mr Carroll: So you believe that will cause companies to close up shop?

Mr Carnavale: Yes, we do. We believe that they're going to go away from the concept of reporting. Why would they?

Mr Duncan: Two aspects of your presentation struck me. Number one, you referenced the funding ratio in 1994 versus 1985 and you indicated that the funding ratio had increased. There has been quite a body of work done on what the so-called appropriate funding ratio is. I wonder if CUPE has had an opportunity to review that issue and over what period of time you would see us moving to that zero figure.

Mr Carnavale: We think that the projections that the original—although we didn't fully support, as a labour

movement, the financial improvement package that was submitted by the board, it was the labour members of the board of directors who put a motion at the last board meeting to have the financial improvement plan passed. In fact it was the labour community on the board of directors who voted against it. We supported that package, and we still do, looking at 2014 as being the zero, the year 2014.

Mr Duncan: Okay. Then, if I can, just one other question. At one point in your presentation you referenced the \$130-million surplus in 1994, but in another part you made reference to the \$400-million subsidy from the investment fund and you also expressed your concern about no plan for repayment robbing that fund, if you will, to make up the operating deficit. Do you have any thoughts along the idea of how you would set up a repayment plan?

Mr Carnavale: I think the repayment plan is part of the overall financial package that has to be reviewed. I think that if the ratio or the \$3.10—we actually reduced to \$2.70 per \$100, and if you go back to a stable \$3.10, which apparently is what they want to go back to, certainly a designation of a portion of that \$3.10 should be made towards reinvesting or putting back into the investment fund. Remember, we're not just talking about the \$400 million. It's all of the interest and all of the advantage that that \$400 million annually would have garnered that's been missed as well.

Ms Martel: I'm interested in your comments about the financial improvement package that was put forward at the board of directors, clearly to try and bring into line the unfunded liability issue by the year 2014. I wonder if you can just comment again as to who in fact was responsible for bringing that forward and who voted against it.

Mr Carnavale: The labour side of the board of directors, with a lot of review and a lot of discussion, brought forward the motion that the funding package recommended by the staff of the board be approved. It was the employer members of the board of directors who voted against it, and that's a matter of record.

The Chair: Thank you, Mr Carnavale, and your associates, for coming in to see us this afternoon and for leaving us with your presentation.

ONTARIO NETWORK OF INJURED WORKERS

The Chair: Our next group up is the Ontario Network of Injured Workers. Good afternoon, gentlemen. I wonder if I could have you introduce yourselves to the committee and Hansard.

Mr Karl Crevar: Certainly. My name is Karl Crevar. I am the president of the Ontario Network of Injured Workers. On my left is Mr Phil Biggin, who is the executive vice-president of our organization.

I have to apologize, first of all. I do not have written submissions, so I hope you all have your tape recorders so it can be recorded what we're going to be talking about.

I'm going to be talking from a little bit different angle, because the discussions that have been going around—I have not followed all of them—but we are the ones who

are going to be impacted, the injured workers in this province and workers in this province, by any changes that are being implemented, and I think that's one of the most basic things that has been forgotten. I have not heard that since I've been here today. All I've heard is the financial responsibility and all the financial aspects of it.

1710

Let me say that I'm clearly disappointed and angry at the manner in which these hearings were set up. Our organization is represented in 34 communities across this province, in the range of 50,000 or more injured workers, largely the unorganized.

When we got the word, when it came down that this committee was meeting, I tried to confirm to get a position here on behalf of injured workers in this province on the first day of hearings. I was informed the Thursday previous of the hearings that were going on.

We have participated in the past on Bill 162, we participated on Bill 165, and all our groups want to be able to participate and express our concern over the changes and the impact that it's going to have on workers and their families across this province.

With that, I want to start off just by giving committee members—maybe they're not familiar with the history of what workers' compensation is all about in this province. It was introduced in 1915 by Judge Meredith and that was after a long discussion, a long process between labour and management on how we can address and get away from civil litigations to be able to fairly compensate workers injured in the workplace.

There have been four royal commissions in this province. The latest one, which is the one the government of the day decided that they were going to do without, they weren't going to take the reports—and I can assure all members here, if you're not familiar, that many injured workers addressed the last royal commission. There were very many submissions. Many, many thousands of injured workers submitted what was wrong with the system, how to correct it, yet we find ourselves in the process of dealing with Bill 15 again.

I can tell you on behalf of injured workers, we will not be part of justifying the government's initiative just to say that they had consultation in this province to deal with workers' compensation in this province.

The three royal commissions that were established, very interestingly, the first one was in 1931. The commissioner of that royal commission was the Honourable William Edward Middleton, Justice of Appeal of the Supreme Court of Canada. Following that royal commission, the basis for that was to address benefit levels. There was an increase in benefit levels, and that was on the recommendation of Justice Middleton.

In 1949 the next royal commission that was set up was headed by the Honourable Wilfrid Daniel Roach, Justice of the Appeal of the Supreme Court of Ontario, and I just want to take an excerpt of his findings in his report:

"This act should be considered for what it is and was originally intended to be, namely, a scheme by which compensation is provided in respect of injuries to workers

in industry. It is not a system for dispensing charity. It is not unemployment insurance. It is not social legislation for the purpose of elevating the standard of one group in society at the expense of another."

At that time, benefits again were raised.

Sixteen years later in 1966, the third royal commission, the Honourable George Argo McGillivray, Justice of Appeal of the Supreme Court of Ontario, was appointed commissioner. His report was filed September 15, 1967. Regarding workers' compensation, the report advised:

"For the working poor, the balance between earning just enough to get along and having to do without certain basic necessities is easily upset. Income interruption or income reduction, even for a short period, spells disaster for anyone whose budgeting is done on a week-to-week or even day-to-day basis. The reduction of earnings which takes place during the period when a low-income worker is forced by accident or injury to rely on work-mans' compensation benefits inevitably causes serious problems."

Each royal commission—the poverty report, the McRuer commission and the task force report—all brought attention of the government and the public to the low benefits and poor treatment of injured workers. What are we dealing with in Bill 15? Again, the process and the discussion that the Ministry of Labour had announced earlier this year in reforming WCB—reduction in benefits to workers, the introduction of the three-day waiting period with no top-up—in my view invades the privacy of citizens of this province. When you buy insurance or whether you have a mortgage on your home and the bank rate says it has to go up, guess what? You pay the increase. That's the price of doing business, whether it's workers' compensation, whether it's purchasing a home or whether it's purchasing car insurance. When the car insurance industry says, "We have to raise your rates by 20%," you either take coverage or you take the chance of driving without insurance, at which time if you ever, God help you, get into an accident, you will pay dearly. There's no negotiations for lowering the rates of benefits.

I want to leave some time for questions if you do have them, so I'm not going to get too extensive, but I do want to make a last-minute comment in here. I would suggest to the members here, this was a submission made by June Howard. It's a history on the worker's compensation in Ontario. It was submitted to the hearings committees on Bill 165. Take the time to research it and see what's in these documents as to what the worker's compensation is all about.

It said: "The majority of Ontario employers are just and fair," and that is true; we believe that very strongly. "They pay their premiums and trust that the WCB will look after their accident victims as humanely as possible. But a vocal minority consider workers to be animated disposable machines. You work them as hard as you can, fix them if it's possible to return them to productivity, and dispose of them as cheaply as possible if they no longer have value in your workplace, all in the name of profit and greed.

"This vocal minority is the voice heard today asking for a reduction in WCB benefits, that want back and

other soft-tissue injuries removed from compensation and demand workers pay premiums for their compensation. They care little about what happens to the victims of their accidents."

These were words that were heard back in 1910. We hear those same words today, and those vocal words by a few minority in this province are reaping millions of dollars. I ask you seriously: You've heard some of the submissions before. If you want to look at problems, look at the revenue leakage which amounts to almost \$2 billion in the last four years. This is money taken out of the system to pay for administrative costs. Also, you've heard before on the experience rating, on the off balances. In today's dollars, in 1994 dollars, the assets of the workers' compensation would be sitting at \$10 billion and we wouldn't be sitting here today talking about workers' compensation reform or addressing the issue of unfunded liability.

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We have seen the unfunded liability only as a scheme and a way to not only harass, but to scare the hell out of the public in this province, when we know in fact where the real problems are. I urge you, look at the facts. They're in your annual reports. Do not proceed with this legislation. You will be destroying a system; you will be destroying a society. Workers' compensation is not a charity, it's a right. Thank you very much.

The Chair: Thank you, Mr Crevar. The first questioner in this round will be from the Liberal Party.

Mr Duncan: As you know, Minister Jackson will be bringing forward the most substantive amendments to the Workers' Compensation Act. I believe they're expected next spring. The minister has indicated on a number of occasions that they are undergoing extensive consultation. Have you or your group been asked to consult on the changes that Minister Jackson is contemplating?

Mr Crevar: It's odd that you should ask that, because as I indicated in my opening remarks, my concern is over the consultation about changes that affect us, the workers. It's going to reduce benefits; it's going to force people to go on to social assistance and to other income supplement agencies. We had just very recently been contacted by the minister to discuss, and informed that, yes, there will be consultations going on. We were well aware—and hoped—that it would be the smart thing for this government to do, to have full consultation on any changes to workers' compensation which the minister has been directed to be completed by April 1996.

The concerns I raise again with the Chair in terms of the process, as I indicated during Bill 165: How can we tell you in 15-20 minutes the devastating impacts that the changes will have when you don't have input from the people it will directly affect? And I'm not talking about having extra money; I'm talking about having an income in order to survive.

So it's been limited. We've been made aware that the minister is going to have consultation, in answer to your question.

Mr Duncan: Were you invited to consult at all on Bill 15 before it was introduced in the House?

Mr Crevar: The previous speaker said it entirely. We were notified by mail to have written submissions, and the time element was very, very limited in order to have effective input into that. There was no consultation requested in that respect, open consultation, as to the impact of the changes.

Mr Christopherson: My question would be on the government's proposed action regarding the 5% cut. I'm going to ask some of these questions now because I never know when we're going to get public input any more with this government, so I'm going to grab it while I can. Given your thinking and position on the funding of WCB, the unfunded liability and all those things in relationship to the priority of the board, which is to make sure that workers are covered, what are your thoughts on a proposed 5% cut to disabled workers at the same time the government proposes reducing the assessment rate by a further 5%? Can you see any benefit at all to the system or to workers by carrying out those two positions?

Mr Crevar: What we're seeing today—and I ask the committee to go and look at the Minna-Majesky report, the task force report. This came out about four years ago, I believe it was. When you look at that indication of the percentage of injured workers not returning to work on that report and look and see what's applied today and the benefits that those injured workers—and I'm talking about 80% at the first review under Bill 162; 80% of injured workers have not returned to meaningful employment, so they are receiving some sort of benefits. Thousands, and a good percentage of them, because they're limited in the entitlements, have had to resort to seeking social assistance, other income supplements.

I'm sure you've heard the stories of what it implies and the tragedies that have ensued as a result: the family breakup, the marriage breakup, suicides. Those are realities. Then to suggest another reduction of 5% in benefit levels, that will be devastating. Those injured workers who have the limited incomes now or benefits that they receive from WCB will have to go on to other income supplements.

Where do they turn? They will have to turn to social assistance, and lo and behold, we've already had a reduction in those benefits. It will be devastating. It will cost, because the taxpayers of this province will be paying for that.

The Chair: We've reached the allotted time. Thank you, Mr Crevar, for making your presentations. I certainly encourage you to continue to provide submissions.

ONTARIO RESTAURANT ASSOCIATION

The Chair: Our next group up will be the Ontario Restaurant Association.

Mr Paul Oliver: Good afternoon. My name is Paul Oliver and I am president of the Ontario Restaurant Association. The ORA welcomes the opportunity to present our views on Bill 15, An Act to amend the Workers' Compensation Act and the Occupational Health and Safety Act.

The ORA and the more than 15,000 employers which comprise the restaurant and foodservice industry are deeply committed to reforming the WCB system. The

ORA strongly supports the principles of the existing no-fault compensation program which "provides a fair level of compensation to workers and protection from legal proceedings for employers." The ORA believes that reforming the WCB system, however, must be a priority of this government. The competitiveness of Ontario and the competitiveness of Ontario's restaurant and foodservice industry is directly influenced by the ability and the success of the government in reforming the existing compensation system.

We believe the Ontario WCB system is in crisis. It is broken both fiscally and structurally. Operating with a staggering \$11.4 billion in underfunded liability is not a sustainable prospect. Without addressing the long-term stability of the system, the future viability of the WCB system is in jeopardy, as is the ability to pay benefits to injured workers both today and in the future.

We support the initiatives of the government of Ontario to undertake structural reform by introducing Bill 15. However, we must emphasize that we see this as only the first step towards stabilizing the system. The real fundamental reform, which is an even more major step, must follow quickly.

The establishment of a new board of directors is a key element to facilitating change and reforming the WCB system. The foodservices industry strongly supports the announcement that the WCB governing structure will move away from a bipartite structure and towards a multi-stakeholder approach. We believe this is a positive step and one which is critical to undertaking meaningful reform of the system. We feel that the bipartite model has not effectively served the people of Ontario, nor enabled the WCB system to be operated in a prudent or responsible manner. The bipartite model has led to confrontation and paralysis in decision-making, and has been a contributing factor in the staggering underfunded liability.

The ORA has had experience within the bipartite governing model through our direct participation at the WCB's sister bipartite organization, the Workplace Health and Safety Agency. At the WHSA board, the ORA was represented on both the board of directors and the bipartite small business advisory committee. I myself co-chaired the agency's bipartite small business advisory committee and know all too well from firsthand experience how inappropriate the bipartite structure is to developing good and workable public policy.

From the experiences we faced at the Workplace Health and Safety Agency, it is clear to us that the bipartite model of governing is not an effective model to be used at the policy development and policy implementation levels. Bipartitism has worked effectively in many workplaces in Ontario. However, at the policy development and administrative levels we believe it has failed, and it has failed to the point of jeopardizing the WCB system.

We believe the departure away from a bipartite governing model is important because this change in governance is critical to moving the WCB away from being an adjunct to the social welfare net and instead restoring it to its original objective, that being that "in exchange for giving up the right to sue an employer, an

employee can expect to receive fair," and equitable, "compensation." This change is critical to the WCB returning to a workplace accident insurance organization, and as a result, a corporate model of governance is the only vehicle for this transition.

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By moving to a multi-stakeholder board, the Ontario Restaurant Association recognizes that this means that the business community is giving up its ability to have direct representatives who speak for their interests at the board of directors. However, we believe that all stakeholders will be far better served when board members place the interests of the system's long-term viability above their individual respective interests.

The Ontario Restaurant Association also supports the inclusion of a clear policy direction role for the government through a revised memorandum of understanding.

We support the requirement for the annual five-year strategic plan, an annual statement of priorities and an annual statement of the board of directors' investment policies and objectives. The enhanced role made for the government by Bill 15 makes it clear that the WCB crown corporation is an element of the provincial government which must serve the public interest as set forth by the government of Ontario.

We also support the establishment of a new requirement that each director of the board must act in a clearly defined fiscal and accountable manner which helps to restore the confidence in the leadership and direction of the WCB. This provision will help make the directors focus their responsibilities more directly and correctly on the financial management problems at the WCB.

The ORA welcomes the amendments to the purpose clause as outlined in Bill 15. This amendment will help focus the activities of the board of directors on securing and protecting the long-term fiscal viability of the system. We strongly support the six elements of the purpose clause in the order in which they are outlined in the legislation.

The ORA also welcomes the two major additional objectives outlined in the purpose clause, which expand the responsibilities of the WCB to include provisions "to prevent or reduce the occurrence of injuries and occupational disease at work" and "to promote health and safety in workplaces." We believe that the WCB can play an important role in focusing the efforts of workplaces on the prevention of accidents and the implementation of health and safety in workplaces. In this regard, we support the return of this responsibility to the WCB.

We must, however, raise a serious issue of concern to the hospitality industry at this point, and that is the funding of health and safety within our sector. We are concerned that the current funding allocations do not warrant enough resources to enhance health and safety training within the foodservices, accommodation and hospitality industries. This is not because our industry's unwilling to contribute financial resources; it's just the opposite.

We have previously raised this issue on a number of occasions, but unfortunately it fell on deaf ears with the previous government. We therefore raise the issue again.

We believe that it is an important issue which must be addressed and is appropriate at this time, as the committee is now reviewing the Workers' Compensation Act as well as the Occupational Health and Safety Act.

On an annual basis, as part of WCB rate group assessments, hospitality employers contribute approximately \$2.5 million towards health and safety training and accident prevention. Unfortunately, once these financial resources are allocated to individual sectors, our industry receives less than \$1 million, or 40% of what we actually pay.

We believe that this financial allocation, or what we would consider a misallocation, is unfair and that if an industry is contributing financial resources towards accident prevention in their sector, then these resources should be rightfully allocated to the contributing sector.

We recognize that this issue is not directly impacted by Bill 15. However, we strongly urge the committee to raise this with the Ministry of Labour, as it is part of the WCB's new fiscal accountability.

Foodservice operators share a common business desire to reduce fraud by identifying areas of potential revenue loss and overpayment and implementing preventive measures to eliminate these concerns. We are pleased that this approach is now a part of the business process of the WCB. These actions will ensure that all employers within the foodservice industry pay their fair share and, most importantly, are treated equally and equitably.

While supportive of the amendments contained in Bill 15, the Ontario Restaurant Association believes that it is only the first tentative step towards more substantive and fundamental reform of the WCB system which is critically needed.

We applaud the decision of the government to establish a minister responsible for WCB. Minister Cam Jackson's review in many ways will be more substantial and meaningful than Bill 15. However, we recognize that the amendments contained in Bill 15 are important to clearing the path for Minister Jackson's review.

While not directly impacting Bill 15, we felt it was important to highlight some of the additional reforms to the WCB system which we believe are critical to ensuring the long-term viability and sustainability of the compensation system. Some of the issues of concern to the foodservice industry include:

1. Ensuring that there are no exceptions or exemptions to the application of the Friedland indexing formula.

2. Foodservice operators in Ontario have earned at least a 5% reduction in assessment as a reward for their successful efforts at reducing accidents over the past decade.

These reductions are critical to the competitiveness of Ontario's restaurants, especially when recognizing Ontario has the second-highest WCB assessments of anywhere in Canada for the restaurant industry. At \$2.75 per \$100 of payroll, Ontario's assessment rate for restaurants is substantially above any other provincial jurisdiction except for one. Other jurisdictions, such as New Brunswick, are priced at \$1.04, Alberta at \$1.42 and British Columbia at \$1.07.

This inequity in assessment rates across Canada places Ontario at a significant disadvantage when competing for head office jobs, such as marketing, administrative jobs and the many other portable jobs within the foodservices industry. To ensure that Ontario does not lose existing jobs or future job creation to other jurisdictions, these discrepancies in WCB rates must be corrected.

3. We also believe that the performance of new claims should be driven by the price of the WCB system. We believe that it is imperative that an improved new claims performance should result in a direct reduction in WCB assessments.

4. We also believe that modifications to the benefit levels should apply to both new and old claims.

5. We believe that the experience rating program of the WCB needs to be further supported and enhanced. As the foodservice industry is comprised of employers of all sizes, the experience rating program is an issue of great concern and interest. We believe that experience rating needs to be meaningful to all employers regardless of size. To do this, a variety of choices and applications must be available.

We also do not believe that the current experience rating off-balance should be seen as a major contributor to the WCB's reported cash flow problems. The current experience rating off-balance is a direct result of the dramatic reductions in new claims and should be viewed as a positive initiative, not as a negative consequence.

In conclusion, once again, the Ontario Restaurant Association supports Bill 15, as we see it as an essential component to the successful future economic and administrative changes within the WCB system. From the perspective of the foodservice industry, we believe that these changes are vital to improving and enhancing the economic environment in Ontario. We do, however, urge the government to continue to remain very focused on the more important and pressing long-term reform issues facing the WCB system.

The Chair: Thank you, Mr. Oliver. We've got about two and a half minutes remaining. Questioning will commence with the third party.

Ms Martel: Most of the employer groups that have been here this afternoon have made a comment in one way, shape or form about how the bipartite model had led to confrontation, paralysis in decision-making and any other number of characterizations. I guess the reason I want to focus on this is because I would like some concrete examples, if you can provide them, not with respect to your experience at the health and safety agency but with respect to what went on at the WCB, because I know that at the point where both the business and the labour reps were fired by this minister, we had a situation where the board, for the first time, had an operating surplus. It wasn't a lot, but it was for the first time. We had for the first time as well a reduction in the unfunded liability, and we also had worker reps, for example, who had moved to accept a financial improvement package which would have reduced the unfunded liability by the year 2014, as this government is wanting to do in this bill. So I am really curious as to what experiences, what issues etc people can point to, as the minister has pointed

to in her own statements, that in fact the reason she had to fire everyone was because of the paralysis that went on.

Mr Oliver: Well, you mentioned the FIP package, the financial improvement package. I would submit that the length of time that it sits on the table at the board, not looking at meaningful issues, not being able to break up the package, not looking at the different components of it, probably is an indication of a system that's not working. In a normal corporation or an insurance company or in a board that's effectively working, you'd be able to move through those policy initiatives, make the decisions fairly quickly.

How do you resolve the decisions where there is deadlock at the board, where there are two fundamental different approaches? The FIP package is an example of that. Getting beyond what is just written on the paper and getting into the true financial accountability of that package was something that needed to be done and it was never able to be done.

1740

Ms Martel: I would have assumed, though, that even for the labour representatives to agree to move forward on FIP, they would have had to make some compromises too. I suspect in that package there are some things that, as worker reps, they would have found pretty untenable. I guess I don't understand why—

Mr Oliver: You're mentioning about compromises and negotiations, and quite frankly I don't buy into the idea that good public policy is always negotiated. If you're basing it on facts and you're basing it on information and you're bringing technical expertise to the table, there shouldn't have to be negotiation. You shouldn't have to be negotiating what is good public policy. You'd just be able to identify it and move on with it.

Ms Martel: I guess that's if you're all coming from a similar point of view. You know, it's easy if everyone is representing either a labour perspective or an employer perspective. Then you don't have to negotiate. We're talking about workplace parties dealing with a system that was in place (a) to protect workers who got hurt and (b) to make sure that employers didn't have to get sued.

Mr Oliver: But I think in the multi-stakeholder approach you would not have to have this too polarized approach. You would have professionals on there, you'd have representatives from the accounting and financial communities, and they would be bringing forward the professional approach and looking at issues from more than just two perspectives, because there are more than just two perspectives.

Ms Martel: But if I listen to you talk about professionals and people having the skills etc, I have to assume then that the people who were appointed, either by the business community or by the labour community, weren't in fact that. That's the only impression I am left with as I hear you talk about people's qualifications and skills. But surely your business colleagues, at least from your point of view, who were there representing business interests were qualified to be there.

Mr Oliver: But they were there representing business interests or labour interests, and what I'm suggesting is, developing public policy, there may be more perspectives than just business and labour.

Ms Martel: They had no skills with respect to accounting, human resource management, fiscal accountability etc?

Mr Oliver: If you want someone with fiscal and accountability background, why don't you go to the financial community and bring that person forward? That's what you would do under a multi-stakeholder approach.

Ms Martel: I would have assumed that people in the business community would have brought that perspective as well.

Mr Oliver: And I would have assumed that they would have done it from organized labour, but they didn't.

The Chair: We've surpassed our 15 minutes slightly there. Thank you, Mr Oliver, our appreciation for taking the time to come and make your submissions today.

UNITED TRANSPORTATION UNION

The Chair: Our next group up is the United Transportation Union. Good afternoon, gentlemen.

Mr Dennis Schweitzer: Good afternoon.

The Chair: I wonder if I could get you to introduce yourselves to the committee and for Hansard.

Mr Schweitzer: My name is Dennis Schweitzer. I'm provincial chairperson for the United Transportation Union. With me is Paul West. He is the vice-chairperson of the Ontario legislative board. Our main responsibility in representing bus and rail workers in the province of Ontario is in dealing with workers' compensation.

I have provided you with a lengthy submission, which I do not intend to read, and I would like to take a cue from the last question and answer period with Ms Martel and Mr Oliver.

I was a former vice-chair, from labour, of the board of directors of the Ontario Workers' Compensation Board, and I would like to put it on record clearly that both the business and labour representatives on the board of directors took their responsibilities very seriously, that the board was made up of people who had expertise, unlike what Mr Oliver seems to suggest. That board of directors, both while I was there and after I left and prior to the minister's dismissal of that board, was making sufficient progress for us to have optimism in the future of the Ontario Workers' Compensation Board.

When the board in 1994 had an operating surplus of \$130 million, when the board accepted a package on to the table from its administration for financial improvements that would not have reduced, if my recollection is correct, the unfunded liability by 2014 but eliminated the unfunded liability by 2014, I would suggest to you that there was a measure of irresponsibility, and that irresponsibility lies clearly on the employers' doorstep. The package that was put together did have pros and cons, both for the worker community and for the business community, no doubt. There were a lot of things that

were hard to swallow for labour. Yet labour agreed that it was their financial and fiscal responsibility to promote the package.

Now, you have to bear in mind that the administration is made up of many different areas of expertise: the financial expertise, the client service expertise etc., etc. They brought a package to us while I was there and while in the interim, between my end of term, when I was an adviser to the CEO, Mr Copeland. It's somewhat ironic to me that the business community and the CEO would not support a package of administrative improvements that would have seen the end of the unfunded liability. I find it very difficult coming before you and listening to my predecessors talk in the manner in which they're talking about the people who served on that board. I for one, personally, and, I understand, John Martin, who's going to be here after me, resent the implication that we were less than what we should have been on that board of directors.

I would also suggest to you that this government has invented a crisis by saying that the board is out of control, that the unfunded liability is driving business out of the province, that workers are ripping off the system and making illegitimate claims. You have to consider that the WCB is unlike any other business in this province. It's not an insurance company. It's not a business like Eaton's or Simpson's. It's a business that deals with workers who get injured and workers who need assistance.

In 1994, there were 230 workplace deaths in Ontario. We need to improve that to the point where there are zero deaths. The Ontario WCB has recognized only one out of 17 occupational disease victims in this province. Those are the things that are the crises in workers' compensation, as far as we are concerned.

We also believe that the worker community has been forthright with respect to the rate assessments. As far as I can recollect, the average rate has not increased beyond \$3 since 1993, the last year that I had anything to do with rate-setting at the board.

We do suggest to you that there are as many as 20,000 employers in Ontario who should be registered and paying workers' compensation premiums but who aren't. I would suggest to you that many of them are in the Ontario hotel and restaurant business.

When I was at the board, one of the last things we did was move a motion forward to pursue employers who did not register. One of the things that was discussed and talked about around the board table was granting employers a short amnesty after a very vocal campaign to let them know what their obligations were and then, after that, it was our intention as a board to come down on them with all the force of the law to make them pay their assessments. Right now, we understand that there are over 55,000 employers in Ontario who owe the Ontario Workers' Compensation Board in excess of \$400 million, either in unpaid assessments or in penalties.

I would like to end my submission with just one suggestion to you with respect to the unfunded liability. It has been purported to be the cause of the crisis in the Ontario workers' compensation system. To us, the

unfunded liability is not a debt; it is merely a figure which represents the present cost of future payments owed to injured workers by their employers for their current claims.

I believe that we have to take into consideration that the WCB has an accident fund of over \$6.8 billion. I'd have to ask the employers who are in this room: What do they want? Do they want a fully funded system? Do they want \$50 billion in assets in the Workers' Compensation Board? I think the answer to that question is no.

There's a lot for you to read in the submission, and I think that if you take the time, you will see that we do have some legitimate points of view. We would like to answer any questions that we're able to.

The Chair: Thank you very much. The questioning this time will be starting with the government benches.

Mr Maves: A couple of things: The first one is with regard to the financial improvement plan that keeps getting bandied about. I understand there was a plan brought forward from, I think, Mr Copeland which had about 200 proposals. The labour representatives on the board brought forward a plan, kind of their own version, with significantly less proposals. That was the one which the employers disagreed with. Is that accurate?

Mr Schweitzer: In my recollection, it's not accurate. 1750

Mr Maves: There was only ever one—

Mr Schweitzer: My understanding is that the board of directors, of which I was a part from 1993 up until July 1994, directed the administration to find ways to financially improve the lot of the workers' compensation system. That, in and of itself, is a big job. The administration is made up of a number of different areas, and I believe what they were asked to do was to find ways of trimming costs, saving money and producing the overall net result of a reduction in the target area of approximately \$400 million.

I believe, if I'm not mistaken, that the target of \$400 million had something to do with the amount of money that was withdrawn each year for a period of three or four years from the accident fund to be used for operating revenues.

So the administration did what they were asked to do and came back with a package. I don't know how many recommendations there were. It might be 200, it might be 250, it doesn't matter, but it was my understanding that after I left the board it was to be brought to the new board as constituted by the previous government, which would have been March of this year. When it was brought to the board, it was defeated.

Mr Maves: But there was only ever one group of proposals brought to the board? That was never changed?

Mr Schweitzer: As far as I'm aware.

Mr Maves: I'll check my sources then.

This bill goes after employers, in a sense, those 20,000 employers we were talking about, with stiffer penalties for the failure to register. Do you agree with that aspect of Bill 15?

Mr Schweitzer: My suggestion to the writers of the bill would have been very simple. All they had to do was

legislate that all workplaces and all employers should be covered for workers' compensation in the province. The province of British Columbia has done it and Ontario fell far short with this bill.

Mr Hoy: I don't want to at all put into question the value or the contribution of employees and employers on the board prior to our discussion today. However, I would like to ask you, since you stated that you were on the board, do you think that the expanded board that's proposed under Bill 15 would improve the WCB?

Mr Schweitzer: Let me answer by suggesting to you that we have appeared before three governments and three standing committees on three bills. The first one that we appeared before was Bill 101, which was a Tory government. At that time, there was a multi-stakeholder board of directors in place. The multi-stakeholder board of directors is made up of people from, I guess, whom-ever the government wants to appoint. I don't believe we're going in the right direction.

I do believe that the business and labour people on the bipartite board were able to significantly improve workers' compensation in the province and I believe that bill 15 is going in absolutely the wrong direction. I believe that a bipartite board representative of the two major stakeholders, the workers and the employers, is the only way in which we can expect workers' compensation in Ontario to move forward. And we didn't fight, believe me.

Mr Hoy: You actually answered my second question there as well, so I'll defer.

Ms Martel: If I might, Mr Chair, I would like to read to you the minister's characterization of the bipartite board, which was as follows, and this is when she introduced the bill for second reading, "Unfortunately, the bipartite, labour-versus-management approach has paralysed constructive decision-making on very crucial administrative, policy and financial issues facing the board."

I have felt that that was a very unfair characterization of the board because I certainly believed that both sets of representatives, from labour and from management, came, were prepared to do an important job, took their roles seriously and were qualified to do that job. But you were a member on the board for some time, and I wonder if you can respond to that characterization and outline whether or not you think it's an unfair or a fair criticism.

Mr Schweitzer: I certainly think it's unfair, particularly because the minister was never near the board. The minister's relying on certain special-interest groups to come up with those statements. I find it kind of ironic that she would rely—she's certainly not relying on the labour groups for her input. She has to call into question the business community itself, because they were ably represented on the board. They had the Honourable Robert Stanbury, who took business's positions very seriously. I would say, for my part, he was certainly an honourable opponent. We didn't often or always agree, but in the end there was usually a solution for the problem and it was seldom, if ever, that we ended in a stalemate.

Ms Martel: If that was the case, then why do you think this particular government fired everyone and is now moving back to a multi-stakeholder position, a position we were once in under the last Tory government?

Mr Schweitzer: I guess they're listening to the wrong people. I think that there are those, out in the business community particularly, who think that expertise is somebody who runs a financial institution, runs a physiotherapy clinic, is a vice-president of a manufacturing company. What I believe is needed in a bipartite situation are people who are committed and able to put in the time to deal with the various complex problems that are involved in a workers' compensation system.

The thing with multi-stakeholder that really scares me is that what you're going to have is a group of people who don't have the time, aren't able to give the commitment, don't have the knowledge and, frankly, don't know what they're getting into. I don't think they will be a board that will perform. I don't know if that answers your question.

The Chair: With that we've reached our 15 minutes. We appreciate you allowing time for at least one round of questions. Thank you very much for coming this afternoon and making your presentation.

EMPLOYERS' COUNCIL ON WORKERS' COMPENSATION

The Chair: Our next group up is the Employers' Council on Workers' Compensation. Good afternoon, gentlemen. Just a reminder that we're limiting all the groups, in order to get all 73 deputations in, to 15 minutes, to be divided as you see fit between the presentation and question and answer. Introduce yourselves to the committee and to Hansard.

Mr Jim Yarrow: Thank you, Mr Chairman. My name is Jim Yarrow. I'm chairman of the Employers' Council on Workers' Compensation. With me at the front table today is John Neal, a consultant to the ECWC, as well as a member. I feel more confident and can talk much better for my part of it because I have him to answer the questions at the end, as he had a lot of the input, particularly nice sharp questions we had from over here. The other gentleman is Mr John Blogg, who is a member of our council and also from the mining association.

You have in front of you our presentation, some of which I will not be reading, most parts of which I will be in order to get it into the record.

The Employers' Council on Workers' Compensation appreciates the opportunity to present its members' views on Bill 15 and the need for further reforms next spring following Minister Jackson's review.

The ECWC, for those who might not know, is a non-partisan coalition of employer associations, employers and experts in the workers' compensation field, representing the interests of over 100,000 employers. Our members represent all sectors of the economy and include large and small business.

Since 1984, the ECWC has been active with the board, the WCAT and the Ontario workers' compensation system, working with those agencies to attempt to ensure

that Ontario has an effective and sustainable workers' compensation program. A full list of our membership is attached to your copy of the presentation.

Before turning to Bill 15 and next spring's reforms, we would like to briefly review the last few years in order to set the stage for the debate on the current reforms.

As outlined in your copy below these comments, its members have been deeply involved in the reform of Ontario's workers' compensation system for many years. Copies of some of our presentations as well are available for the benefit of the committee.

What is clear from our hands-on experience with Ontario's workers' compensation system is that nobody is satisfied with the current state of affairs. The experiments with various forms of governance and benefits since 1985 have been ineffective. These reforms have left us with a bloated, all-but-bankrupt system. It often provides more than is needed, discourages proactive self-rehabilitation and still leaves some workers with less than that which is appropriate.

What Ontario needs for its workplace insurance program is protection of covered workplace participants from the real losses caused by workplace accidents; proactive behaviour by workplace participants to minimize the number of workplace accidents; and proactive behaviour by workplace participants to minimize the real losses caused by workplace accidents.

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What Ontario does not need for its workplace insurance program is: provision of real gains from workplace accidents; protection of covered workplace participants from losses caused by lifestyle, retirement, loss of employment, aging, congenital disabilities, non-traumatic stress and non-workplace accidents and diseases.

In order to reform Ontario's workers' compensation system so that Ontario gets more of what it needs and less of what it does not need, the ECWC recommends: rename the WCB to something like the Workplace Insurance Company; replace entitlement to benefits with indemnity for real losses caused by workplace accidents; exclude indemnity for acts of God, war, insurrection, lifestyle, aging, retirement, loss of employment, congenital disabilities, stress and all other non-workplace events; and register all covered participants.

We also recommend increased accountability for the government, the administration, employers, workers and injured workers.

The government should be held accountable for: effective legislation that is affordable, sustainable, clear, avoids unrealistic expectations and outlines the responsibilities of the administration, employers, workers and injured workers; realistic pricing of all reforms and policy changes; and the appointment of the board of directors.

I'm taking each of these areas. The administration should be accountable for: the pricing of new claims and the planned funding of the system; staff as well as the board of directors must be financially responsible; courteous, timely, accurate administration which includes getting it right the first time, prompt decisions regarding when indemnity is required and when it ends, prompt

collection of funds and payment of indemnity, and proactive communications with government, employers, workers and injured workers.

Employers should be accountable for: financing the system, based upon their own claims experience; registering covered participants; ensuring occupational health and safety; obtaining medical support at the time of accident; rehabilitation and reinstatement of injured workers; supporting the administration to make the system work.

Employees should be accountable for: safe work practices and healthy lifestyles.

Injured workers should be accountable for: healthy lifestyles; immediate reporting of workplace injuries; proactive self-rehabilitation; proactive participation in rehabilitation programs; proactive participation in modified work programs; and a timely return to work.

Having set the stage for the reform of Ontario's workers' compensation system, we will present our views on Bill 15 and the need for further reforms next spring, following Minister Jackson's review. The ECWC supports Bill 15 as it starts its journey towards more accountability.

We urge Minister Jackson to rename the system. We recommend replacement of entitlement with indemnity for real losses. Indemnity must be limited to indemnity for events directly related to workplace accidents. There must be provisions that lay out the responsibilities of government, administration, employers, workers and injured workers.

We support the structural changes outlined as follows in our presentation.

We recommend a focus on clarity and simplicity. By way of example, we note that the current registration rules can be complex. The complexity arises out of the fact that the WCB has its own rules for whether or not an individual is deemed to be an employee. There are no fewer than seven questionnaires used for this purpose. It would be far clearer if the board were able to adopt the rules used by Revenue Canada to determine the requirement for making CPP and UIC contributions. Use of Revenue Canada rules and reporting requirements would clarify and simplify an organization's responsibilities and enable prompt, cost-effective, courteous administration.

We also note the fact that there are no pricings for the savings expected from Bill 15. We acknowledge that many of the provisions of the bill are difficult to cost. Nevertheless, costings plus administrative targets such as a 10% reduction in appeals for 1996-97 and again in 1998 would provide the new board of directors and the system's stakeholders with a clear picture of what is expected from them.

On the need for further reform next spring, we reiterate the need to:

- (1) Rename the WCB. This will return the program to its original intent of providing no-fault employer-paid insurance for workplace accidents in exchange for the elimination of the right to action.

- (2) It will replace entitlement with indemnity for real losses. This will clarify that indemnities are limited and not part of the welfare safety net. Replacing entitlement with indemnity for real losses will require several things:

(a) Lower benefits to address overcompensation arising out of the tax-free status of payments and the impact of our progressive income tax system;

(b) Lower benefits to address reduced expenditures arising out of not going to work;

(c) Removal of supplements that fail to recognize sources of income such as retirement pensions;

(d) Removal of supplements that result in compensation based upon the higher of actual loss and average loss—for pre-1990 claims, lifetime pensions are based upon a chart of average disability ratings;

(e) Lower benefits in order to introduce financial incentives for proactive rehabilitation and return to work;

(f) Replacement of an open-ended system with one where rates of indemnity can be finalized.

(3) Include responsibilities, for covered workplace participants, for proactive: prevention of accidents; self-rehabilitation; participation in rehabilitation programs; return to work and reinstatement.

As outlined in the document, Workers' Compensation Reforms: Common Sense for a Change, these changes will have a significant impact upon the current system. By way of example—you don't have to be a mathematician to make this work—the combination of: a 5% cut in indemnity; a three fifths of a week waiting period; a 10% cut in overheads; reformed FELs and FEL supplements plus full application of partial indexing for new claims; reforms to existing claims to remove the \$200 per month supplements; reformed FELs and FEL supplements and pre-1990 supplements plus full application of partial indexing.

All of these in combination could reduce the schedule 1 unfunded liability by \$3 billion. They could reduce the schedule 1 annual cost of the program from \$3 per \$100 of assessable payroll to \$2.32.

As large as these potential savings are, it's important to note that Ontario's schedule 1 unfunded liability would still be larger than the sum of the unfunded liabilities for all other provinces. In spite of what we're saying, it would still be higher. Ontario's schedule 1 annual cost per worker would still be among the highest of any Canadian province.

These facts are even more alarming when considered in light of the fact that between 1989 and 1993 Ontario reduced the number of schedule 1 lost time injuries by a whopping 42%, from 185,000 in 1989 to 108,000 in 1993.

In conclusion, we appreciate the opportunity to present the views of our members. We applaud the government for starting the journey towards a sustainable workplace insurance system. We applaud the government for its actions to revitalize Ontario's economy. A revitalized economy is a necessity. Without it, even a system reformed along the lines that we've talked about will be unable to provide our current and future injured workers with the indemnity that they will require.

That completes our presentation and we are open for some questions.

The Chair: Thank you very much. The first up for the questioning this time will be the official opposition.

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Mr Hoy: I would make a small comment here on the workplace insurance system. It's something the government can consider, I suppose, but indeed it is the people who work there who receive the benefits because of an injury.

On page 4 you talk about provision of real gains from the workplace—it's something that we don't require—and protection of covered workplace participants from losses caused by.

If one is to be covered in an adequate way under workers' compensation, wouldn't some of these concerns that you have take place in any regard? Or are you suggesting—well, I would ask you to help me here a little bit in these provisions that we do not need.

Mr John Neal: We are suggesting that the natural aging process should not place a person who has a workplace injury in a fiscal advantage over those who have not had such an injury, as a simple example. We're suggesting that the tradeoff of litigation versus no-fault compensation was a tradeoff for things that happen in the workplace. We do not believe that workers' comp was put in place as a social safety net. If the aging process requires additional funds, we fail to see why injured workers should be a privileged class.

Mr Hoy: Okay. What are you trying to convey to us, that we do not need "protection of covered workplace participants from losses caused by lifestyle"?

Mr Neal: Workers whose degree of disability is substantially enhanced by their own personal choices should not be subsidized by those who choose to live a healthy lifestyle.

Ms Martel: I can only summarize my comments in this way: I thought I saw Jurassic Park once at the movies, but I think I'm seeing it here again this afternoon. I am just so totally opposed to almost everything you've put down here, I can barely begin to describe it.

You've just called workers as being in a privileged class. You said you should change the title of this board to not even have the word "worker" in it, instead to talk about workplace. You said that workers themselves should be responsible for safe work practices and healthy lifestyles. This is somehow to infer that when people go to work every day, they're looking to get hurt.

I just have to say to you that I'm finding it really, really difficult to control my real concern, having been an MPP for eight years and one who has a full-time staff that does nothing else but deal with workers' compensation. I find it very hard to accept a brief like this which basically puts all the problems of the system on the backs of injured workers. I find it really offensive.

Mr Neal: I would suggest that you read it with care and attention. I think you will find that the accountabilities are extremely well balanced. The system needs people to understand that this system is there for those who need help, and unless everybody is proactive at minimizing the use of the system, those who really need it will find it is not there. Those that the system was really designed for are going to be the very casualties of a system that is overused. Why are Ontario's workers

receiving twice as much per client as in other provinces? Are we that unhealthy? I don't think so.

I think we are living in the best province. I think we have the most proactive services. We have dedicated people in the labour movement, in the workplace, in the employer community, working very hard to make it work, to make a difference, to help people go back to meaningful work.

I don't see that happening any better in other provinces, so you tell me why the average claim in Ontario costs twice as much as it does in other provinces.

The Chair: And with the end of that sentence, thank you. In deference to the last group, so that we can finish by our allotted time, thank you for making your presentation and coming to see us today.

UNITED STEELWORKERS OF AMERICA, LOCAL 1005

The Chair: Our last group up before recess is the United Steelworkers of America, Local 1005. Good afternoon, gentlemen.

Mr John Martin: Good afternoon. My name is John Martin. I'm the president of Local 1005, Steelworkers, in Hamilton. On my immediate left is Alan Hodder, who is the compensation benefits chairman. I'd like to make note to the committee that I was previously the vice-chairman representing workers at the WCB.

Having sat here for the last half-hour, I think it would be important that I limit my statement to allow the government to ask the very needed questions, because there seems to be a misconception about what went on regarding the financial improvements package.

The financial improvements package which was tabled to the board of directors was Ken Copeland's unaltered financial improvements package. Mr Copeland was and currently is the interim president and chairman of the Workers' Compensation Board of the province of Ontario.

I attended intense meetings with the vice-chair of the employers, Stephen Cryne, and with Mr Copeland. It was the labour movement—and I want this unequivocally clear before I leave here today—that took the unaltered financial improvements package as put forward by the administration of the WCB. I went to a caucus of the stakeholders, which I represented, and, grudgingly so, convinced them to support the changes needed in that package as put forward by the administration to bring the unfunded liability in control as per the 1985 funding strategy of the WCB. These are the facts.

I would suggest to the committee that I provided the Minister of Labour, Elizabeth Witmer, copies of the minutes of the July 28, 1995, meeting, to show very clearly that the workers' side unanimously voted to introduce the financial improvements package, even though we knew it would take benefits away.

Who voted en bloc against the financial improvements package? The employer community. I'll tell you why they voted en bloc—and I'm watching the clock so you can ask me questions. Because they didn't want to give up their second injury and enhancement fund and they didn't want to give up the new experimental experience rating system.

When I throw you the next group of numbers, you should be shocked: \$400 million a year, starting in the year 1991, was transferred from the investment fund at the WCB to the operations of the board for 1991, 1992, 1993 and 1994. In 1995, \$400 million was transferred from the investment portfolio to the operating account, but only \$250 million used.

I beg the question of the government: Employers got off the hook for revenue leakages to the tune of \$1.6 billion cash. That \$1.6 billion cash, had it been left at \$400 million in 1991, would have brought the current balance of \$6 billion in cash assets at the board to over \$10 billion today.

The Workers' Compensation Board of this province is not in trouble. The WCB fiscally operates in the red because they collect off employers every three months. Due to a reset program that's to kick off next year, we're going to be collecting—I'm using a prior tense—we would have been collecting the revenues every month.

Here's the situation, and I provided one exhibit under the freedom of information act to the committee which factually shows, as of December 31, 1994, \$270 million in outstanding assessments and \$160 million in outstanding penalties. Even if the government had gone through with the 5% rate reduction, you would have created \$140 million in benefits, in money; you would have created a \$120-million shortfall to the operating accounts of the board, which would have meant we would have had to go and draw another \$120 million against the investment fund.

1820

Now, let me talk about the act. The act says very clearly in the revenue sections that the board is not to unduly burden employers into the future. Where do you think the \$400 million went every year when it wasn't recovered? Into the unfunded liability. The unfunded liability, as Dennis Schweitzer from UTU told you, is not a real debt. It has no solvency rules, it is not funded.

I want that to be very clear. If my company tomorrow went broke, our pension agreement is funded by 66%. It has to meet the Pension Commission of Ontario solvency rules. Every employer in the province of Ontario would have to go broke tomorrow simultaneously for the debt level of the unfunded liability to even become effective.

That's not going to happen, unless there's an atomic explosion, and if it did happen, workers would get zero anyway because it's not funded. So the issue is around the operating expenses of the board, and labour and management while I was there worked hand in hand to try to get our minds around the fiscal responsibility.

I may be naïve or I may be stupid, as some employers would have you believe, but if I was left at the compensation board, I truly believe that labour would have assisted management in bringing the unfunded liability to zero by the turn of the century because we're the ones that are going to convince workers to take cuts, not the Legislature of this province. Having said that, I'll open the floor for questions.

The Chair: Thank you very much. The questions will start with the third party.

Mr Christopherson: John, I appreciate your clarifying that because time and time again we've heard a lot of this stuff repeated and it's good to have it on the record.

I want to ask further about the bipartite system and the relationship on the board. An awful lot of groups have come forward and talked about the bipartite system not working, that by inference the members of the board prior have been incompetent, they didn't have the qualifications, the ability to do the job, and further, that because it's 50-50, it's naturally going to always create a logjam and decisions can't be made and therefore you can't go about doing the business that has to be done.

I'd like you to comment on that a little bit and perhaps you could also, while you're doing that—because I think you were there—comment on the 5% reduction to benefits that the board was asked to approve on request by the minister. I believe that's the way it happened. Maybe you can clarify that for me too.

Mr Martin: First of all, with respect to the bipartite board working, we weren't really a true bipartite board, by the way. Bill 165 contemplated and did include two public members whom the board of directors had chosen and submitted to the current government. It would have made it a multi-stakeholder board.

With respect to working together, we had unanimity on every issue except FIP. FIP was the only issue while I was at the comp board that we split on and it was bloc against bloc and the chair chose not to break the bloc. What's important for the panel to understand, because of the inclusion of fiscal responsibility to the purpose clause under 165, we actually hired the leading corporate lawyer on fiduciary responsibility to educate ourselves on exactly what fiduciary responsibility was. That was the direction we were following.

Now let me deal with the question, Mr Chair, with respect. Had the board of directors taken the direction of a 5% rate reduction and a 5% benefit reduction in June when we were directed to do that, I would have created, as an individual, and we would have created as a board—and by the way, we were unanimous in not taking the direction of the government—we would have created a \$120-million revenue shortfall on the one side, but the benefits side would only have gained \$20 million to the board—that's where the shortfall comes in, from \$140 million to \$120 million—because benefits, long-term, are based on severity, and therefore the immediate cash savings in operations to the board would only have been \$20 million. In hindsight, we were right in what we did, and that, in my view, is the reason why the government in September announced that it wanted to take a second look at the 5% assessment reduction.

Mr Christopherson: The experience rating system has been talked about a lot throughout these hearings. Employers are urging that that be retained. I questioned a number of groups about that with regard to the fact that there's an imbalance; it goes against the policy that's there in terms of the number of rebates and penalties. Can you comment on that whole system and what your thoughts are?

Mr Martin: The problem with rebates versus premiums, in the first instance premiums from employers

aren't being collected. Under the act they're not stringent enough in invoking the penalty. However, consultants, wonderful people that they are, come in at a percentage basis and say: "Whoa. I can go to the board and I can get you a cash rebate on your assessment dollar." In some instances premiums aren't being paid but rebates are given out instantaneously, so what you have here is a cash cow to employers.

That's happening. That's where the revenue leakages are coming in. In fact 80% in some instances on the NEER program are given in rebates. What does that do? It really hurts us in the manufacturing—I represent 5,000 employees, 6,000 pensioners at Stelco. You pick all the big manufacturing-based industries in the province; they're paying close to 47% assessment rates. The majority of restaurant people aren't paying anything, and the ones that are paying have a consultant there to get them 80% of the rebates in the first instance. I would suggest to government, before it moves forward on anything, to ascertain who these 55,000 employers are.

The other problem you've got with small employers, they open up a corporate number, they don't pay their revenues, they shut down, then they open up another corporate number over here. But what happens to the liability that remains from injured workers? It gets carried over to the rest of the employers.

In our view, very clearly the revenue problem is what is causing the dilemma to the system in trying to claw back on entitlements and trying to claw back on a 5% benefit reduction. It's like dropping a drop of water in that jug, because you're talking minuscule amounts of moneys in comparison to the \$1.6 billion that I've proven to you, and that's in the audited records that have been pulled from the system since 1991.

Mr Christopherson: Can I ask a short one?

The Chair: If it's very short, very quick.

Mr Martin: Oh, no, he went over almost five minutes, I think, Mr Chairman.

The Chair: No, actually you've got about a minute and a half left. You started out at 6:17.

Mr Christopherson: I'll get a quick one in and then let another one. I've heard, John, and you may not be aware of this, that some companies are receiving more money in WCB rebates than they make in corporate profits. Are you aware of that being the case?

Mr Martin: I have nothing factual to give the committee, but I can say this: There are a number of seminars put forward by consultants, and the actual title of the seminar is Make Profits from Your NEER Refunds.

Mr Carroll: Thank you very much for your presentation. You suggested, if I understood you properly, that it would be labour and only labour and not the Legislature that would be able to convince workers to take reductions. Did I understand that?

Mr Martin: No, I said workers. Workers and only workers will stand up in this province, not the Legislature.

Mr Carroll: No, I realize that, but you said it would be only workers who—

Mr Martin: That's right, and there's a reason why.

Mr Carroll: Do we assume from that then that you believe there should be reductions in benefits?

Mr Martin: I believe, and I'm going to be honest, that the WCB system needs to be fixed. There are some difficulties in it. Workers would have to give back some things in that process, and that process would be through a workers' representative through consultation. The reason I say that, Mr Carroll, is that I did a tour of 14 cities before I was fired by the government and I got it loud and clear that they would be prepared to have a guy from the worker community tell them why it's got to be done versus the government telling them.

Mr Carroll: Okay, but you do admit there need to be some changes in benefits.

Mr Martin: Not in benefits. I didn't say benefits. I said there have to be reductions in the way the board operates itself.

Mr Carroll: So your comment that only workers could convince workers to take less didn't mean in terms of benefits.

Mr Martin: That's correct.

Mr Carroll: One other quick question: Did your union get a request in writing from Minister Witmer to make some submissions about changes to the WCB?

Mr Martin: No. I got it through a mass notification system.

Mr Carroll: But you did get a request for some written input?

Mr Martin: Me personally?

Mr Carroll: No, your union.

Mr Martin: The Steelworkers? I don't know that. I just said my local union found out about it through the labour movement, through the OFL.

Mr Carroll: Did you make any submissions to Minister Witmer?

Mr Martin: On this?

Mr Carroll: No, written submissions on the reform to the Workers' Compensation Board.

Mr Martin: No, I didn't, and the reason is, sir, because I had private meetings with the minister on three or four different occasions, and there was an agreement between the government and ourselves that any dealings while we were employees of this ministry would be with the Minister of Labour.

Mr Carroll: So you had an opportunity for input then?

Mr Martin: With the minister, yes.

Mr Carroll: Okay, thank you.

The Chair: Thank you very much. We appreciate your indulgence, as we've run a little late this afternoon. With that, trying to get back on schedule here, we're going to take a very brief recess for dinner and we will reconvene at 7 o'clock.

The committee recessed from 1832 to 1902.

UNION OF INJURED WORKERS OF ONTARIO

The Chair: Seeing a quorum, I call the meeting back to order and welcome our first deputation of the evening,

the Union of Injured Workers of Ontario, Mr Biggin. Good evening.

Mr Phil Biggin: Good evening, Mr Chairman and members of the resources development committee. We're pleased to be here. The Union of Injured Workers has been in existence since 1974. We have appeared before this committee through three or four different governments and the only thing I would say at this point is that we certainly favour, because Ontario is such a large province, that you go out and reach the people, go to the people directly. That's part of what we're about.

We directly service people, we represent people who are having problems with workers' compensation, with welfare, with Canada pension, people who are having depression, we give hands-on support to people. You've probably heard about us through our demonstrations, but that's a very small part of the work that we actually do. We work one-on-one with a lot of people in groups, small groups and large groups, educationals and so on.

We're here because we feel very strongly that the workers' compensation system is something that was right to be set up in the first place. Certainly, when Chief Justice William Meredith laboured between 1910 and 1913, in 1915 it became a reality. Today there is a need for workers' compensation to assist injured workers, people who get hurt on the job.

Labour Minister Elizabeth Witmer said that in tabling Bill 15, she was acting now because the board is on the brink of a financial crisis. Obviously, the Minister of Labour has trouble digesting the 1994 annual report prepared by the WCB, or perhaps that's why she felt obliged to dismantle the bipartite board of directors before it was even determined whether they were going to be able to do the job that they had set out to do.

It's our position that the Workers' Compensation Board has two stakeholders. The primary stakeholder is the injured worker and the secondary stakeholder is the employer who funds the system. This was the bargain that was set out by Chief Justice William Meredith in 1914 when he intended the system to be set up to provide economic security for workers who were unfortunate enough to be hurt on the job.

There was a historic tradeoff or compromise where workers gave up the right to sue their employers in order to get this security of benefits. It was agreed by all parties—labour, the manufacturers' association, everybody—that employers would fund the system and no money would be taken from tax revenue. Finally, it was agreed this system would be administered by an organization which operated at arm's length from the government.

Now your government is planning to drastically alter this arrangement. All of this because of the so-called financial crisis. We're not saying that there are not problems at the board, financially, but why call it a debt crisis? You've heard presenter after presenter explain that this is not a debt; it is an unfunded liability. It's not the same thing. It's not something that Moody's takes into consideration when it is looking at Ontario's credit rating.

In real terms, the WCB is better funded today at 38 cents for every dollar than it was five years ago at 32

cents for every dollar. That's not good enough, of course, but let's look at the 1994 annual report. Bill 165, against our vociferous objections, took away full indexation of pensions and benefits. We haven't even seen those savings because this is the 1994 report. Yet, in the 1994 report, before Friedland went into effect, the WCB built a new office at a cost of \$180 million, paid out \$359 million in rebates through experience rating—the off balance—wrote off \$173 million in bad debts by employers and ended up reporting a profit of \$130 million.

Mr Chairman, when I indicated to you when we were presenting as a network that I wanted to speak, it was because I said if anybody had any commonsense, how could you put forward a proposal to reduce employers' assessment rates by 5% at the same time that you're taking away from the injured workers? At the same time that the people are consulting with you, the employers and the employers reps are telling you that this is a financial crisis, the system is going to go bankrupt.

Yes, if the system is going to go bankrupt, then why are these employers taking \$359 million, last year, from the revenues of the compensation board when the board's statistics show that \$337 million were paid out in temporary benefits for 1994? In fact, the employers are taking out \$22 million more than the workers are getting, and this is supposed to be a workers' compensation system?

We heard the employers a little while ago tell us that yes, we should change the name of the system. I think you realize, Mr Chairman and committee members, that there are many more workers in the province of Ontario than employers. I'm not putting down the employers, and certainly through all of our presentations we have stressed that we want a strong economy so everybody can be justly compensated, whether they're injured, not injured, whatever. But this is not fair in any way. What you've got here is you've got the employers creating this crisis of collapse. Yes, many workers come up to me and say, "The Workers' Compensation Board is going to collapse." Well, we know from the statistics that it's not going to collapse with \$6.8 billion in the bank.

Certainly, we want to have a responsibly run Workers' Compensation Board, but we have to have a board that is going to go after the 20,000 employers who do not pay coverage even though the act requires them to do so and another \$200 million lost through employer non-registration, non-filing, underreporting of payroll and non-payment of assessments.

I'm going to turn it over to my colleague Carmine Tiano, who's a community outreach worker with our organization, just to give you some specifics about the bill.

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Mr Carmine Tiano: I'm basically going to discuss two sections of the act, of the way the act is proposed to change. Section 21.1, specifically the section on overpayment: As someone who works with injured workers, I see this section specifically geared towards legislating to account for administrative errors at the board.

The majority of overpayments are created by board employees. I feel it would be a better idea to try to stop

the overpayments before they happen, put policies within the board that will stop these overpayments. Most of them are created by board employees, and who bears the brunt of it? Workers.

Of all the stakeholders in the system, it seems that the injured worker is the one who is economically the most vulnerable. If an overpayment occurs, the worker is the one who will be affected the most by it.

The way the proposed changes are worded, there are no mechanisms which will allow for forgiving of any overpayments. This is unbelievable. Meanwhile, when the board last year, in 1994, forgave \$173 million in bad debts, it seems that all they do is forgive employer bad debts but when it comes to workers having overpayments they're hounded and forced to make restitution. In the last couple of weeks I could count at least six or seven workers who have gotten notices that there have been overpayments. They've received one notice; two weeks later already they're demanding payment. This is ridiculous, when the board is forgiving \$173 million in bad debts. I think if you're going to forgive any debts at all, some of the workers' overpayments should be forgiven.

The other section I want to talk about is section 161, which puts criminalization into the act. I have a number of concerns with this. The first: The way section 161 is presently written, it states, "A person who knowingly makes a false or misleading statement or representation to the board in connection with any person's entitlement to benefits is guilty of an offence." It's very open-ended. Not only is the act now targeting injured workers, it's going after employers, representatives and doctors. The way the present legislation is written, it's going to deter injured workers from putting in claims and putting in appeals. Also, doctors now are going to have in the back of their mind, "If I write this medical report for this worker and there is fraud on his part, I'll be responsible."

As someone who represents injured workers, in the back of my mind that causes problems for me too. If I'm representing someone and there's a misunderstanding that could lead to misrepresentation, I could be guilty of criminal charges. I think that this section should be rethought and reconsidered, especially when now even employers could be charged with criminal charges.

I think that the two sections I went through and other sections in this new bill should be reconsidered and rethought. There should be more input, the type of input we're putting in tonight. I feel that even though the government has fundamental differences in the way we see workers' compensation, the ultimate goal is to build a better Workers' Compensation Act. The way the changes are now, we're not going to that. We're going to give employers more power and we're going to take power out of the hands of the injured workers, and I don't think that's the way to go.

The Chair: Thank you. We have time for some brief questions, and this time the rotation will start with the government benches.

Mr Joseph N. Tascona (Simcoe Centre): I'd just like to discuss your comments about section 161. This is not a criminal section. These are provincial offences, if anything. Looking at that provision, which equally applies

to employers in other parts of the act, we're dealing with false or misleading statements that are knowingly made. That is not open, and it's not something that would be subject to anything just short of having knowledge. If it had said, "a person makes a false or misleading statement," I would totally agree with you, but the fact that it says "knowingly" is a big difference.

Also, with respect to subsection 161(2), it deals with, "A person who wilfully fails to inform the board," which is an intent. We've heard from employers who have looked at one section, where it doesn't even have "wilfully" or "knowingly" in front of it and, just basically, you've actually done the act.

I would say to you that the approach that's being taken is not a criminal approach; it's an approach to deal with situations where there is an intent to defraud the board, be that involving a physician or be that involving an employee. It's not the intent to go after workers. I'd just like to hear your comments, based on my view of that provision.

Mr Biggin: That can be handled through criminal charges right now. I don't know why we need an additional section in the Workers' Compensation Act. I think the reason for that section is that it's giving a message to people. I mean, your whole approach seems to be, "We've got to cut spending and we'll do it any way we can." I'm interested to hear your comments. Certainly, somebody who is knowingly defrauding the compensation board, we wouldn't represent them in the first place, and I don't think any other representative would who had any credibility.

Mr Tascona: That's just the point, though. That's what the point is. Knowingly and wilfully defrauding the board is what this is dealing with, and you wouldn't deal with it under the Criminal Code. This is something that would be dealt with specifically under the act, and that's all the intent is.

Mr Biggin: How are you going to deal with the 20,000 employers who are knowingly not registering with the Workers' Compensation Board?

Mr Tascona: There are provisions in there to deal with them also.

The Chair: Thank you, but unfortunately we've used our 15 minutes, and it's going to be a full house this evening. Thank you very much, Mr Biggin and Mr Tiano, for taking the time to come and make your presentation this evening. We appreciate your comments.

EMPLOYERS' ADVOCACY COUNCIL

The Chair: Our next group up is the Employers' Advocacy Council. Good evening. Introduce yourselves for the committee members and for Hansard.

Ms Shirley Wylie: Thank you, Mr Chairman and standing committee members. I'm Shirley Wylie. I'm the provincial vice-chair for the Employers' Advocacy Council. To my left is our acting executive director, Sherri Helms, and to her left is Patricia Briggs, who is the Toronto chapter chair. Each one of us will take a portion of our presentation and I'll begin.

The Employers' Advocacy Council is a non-profit, volunteer organization of employers across Ontario. Our

mission is to reduce employers' workers' compensation costs by influencing constructive change to workers' compensation in Ontario and through education of employers on all aspects of workers' compensation and workplace health and safety.

With over 1,700 members in nine regional chapters across Ontario, the EAC represents a broad cross-section of Ontario's diverse economy. Our members include small business owners employing less than a handful of employees and large multinational organizations. We also have many public sector employers and employers from schedule 2.

We welcome the opportunity to comment on this important initiative to begin reforming the workers' compensation system. We are pleased to see that the government, in laying out its plans for reform, has chosen to proceed cautiously in separating reforms into long- and short-term measures.

The EAC is in full support of the overall direction of Bill 15. This initiative will, in our view, begin to restore our workers' compensation system through measures that will provide professional leadership, greater accountability, deterrence of fraud and abuse, and improved overall efficiencies.

Most importantly, we believe that Bill 15 also begins to restore the confidence of workers, who rely on the system, and employers, who are the sole funders.

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Based upon our active involvement and participation in pursuing constructive reform to workers' compensation over the past 10 years, we have a number of suggested amendments to the bill which we believe will serve to strengthen the legislative reform. We have also put forth some limited, yet key, suggestions to limit costs and restore some of the balance eliminated by the previous government with the introduction of Bill 165.

In supporting and proposing these amendments to Bill 15, the EAC wishes to ensure that the changes implemented are durable and in the interest of improving the entire system. It is in this spirit that we offer the following comments and recommendations for the consideration of this committee. Today, we would like to provide you with our comments in six key areas.

The purpose clause, as proposed, is a major improvement to the existing clause. However, we are concerned that it may not be strong enough to ensure the long-term viability of the system.

We have also concerns that the purpose clause leaves the system open to abuse and interpretation regarding vocational rehab programs. In many instances it's the economic situation, and not the worker's disability, that is in the reason for the worker not returning to work. A distinction needs to be made between "employability" and "employment" in the purpose clause.

We believe it is also necessary to clarify support for the use of financial incentives to employers to prevent workplace injuries.

We propose the following changes.

Suggested amendment to section 0.1: "The purpose of this act is to prevent and reduce the incidence of work-

caused accidents and illnesses to workers, to reduce the overall costs of these accidents and illnesses to employers and the citizens of Ontario, to ensure the long-term viability of an effective and affordable workers' compensation system in Ontario and in doing so, accomplish the following the following in a financially responsible and accountable manner."

We feel there's no change required in regards to providing the fair compensation, no change to providing health care benefits.

However, we do recommend, "To provide rehabilitation programs that restore the worker's condition of employability and programs to facilitate the worker's return to work."

We endorse, "To provide rehabilitation programs for their survivors."

We recommend changes in, "To prevent or reduce the occurrence of injuries and occupational diseases at work through financial incentives to employers."

Lastly, we see no changes in but certainly endorse, "To promote health and safety in workplaces."

Ms Patricia Briggs: With regard to governance and appointments, the EAC is supportive of the measures to establish a multi-stakeholder board of directors. We have several recommendations which we believe will strengthen the government's objective of restoring leadership, management and accountability.

Directors must be selected based on their merits and skills, not because of their affiliation. They must always act in the best interests of the corporation.

To eliminate the concern of partisan views at the board, directors should be representatives "from" their respective communities rather than "of" the communities.

To be effective and have the confidence of the board, we propose that the chair be an order-in-council appointment made on the recommendation of the board of directors.

To maintain the level of independence and to display confidence in the board, the board should also have the power to hire, monitor the performance of and replace, if necessary, the president. The president should be a member of the board.

We also recommend that the chair of WCAT not be a member of the board.

With regard to policy direction, while we have the utmost confidence in the ability of the government and the minister to act in the best interests of the system, we are nevertheless concerned that in allowing an open-ended process for issuing policy directives to the board, it may in fact undermine the independence and confidence that is fundamental to this system.

In our view, the government maintains its control and direction over the affairs and activities of the WCB in three ways: by establishing the broad parameters of the system, setting benefit levels, definition of accident and coverage etc; through the appointment of the board of directors and approval of order-in-council appointments recommended by the board for the positions of chair and president; and through a memorandum of understanding

with the WCB which clearly defines the roles and responsibilities of the government and the WCB.

We suggest that this provision be revisited within six months following appointment of the board of directors.

With regard to WCAT, employers continue to have concerns about the role of WCAT in the system. Generally, employers are of the opinion that WCAT has expanded the definition of "accident" well beyond what was contemplated by the legislators and has had a significant impact on the overall costs of the system.

While we recognize that the future role of WCAT and entitlement issues are being considered under Minister Jackson's review of the system, we are of the opinion that our strong concerns about WCAT can be partially addressed in this short-term initiative.

Restrictions must be imposed to ensure that WCAT can only deal with matters of fact and is bound by statute to follow and rule upon application of established WCB policy. This can be achieved through a minor change to section 86, as outlined in our main brief.

With regard to fraud and abuse control measures, the EAC fully supports the measures proposed in Bill 15 to contain fraud and abuse in the system. These measures are long overdue and will, in our view, lead to a greater level of confidence in the integrity of the system.

To promote and encourage registration of employers, we propose a six-month window and that recovery of back assessments be limited to collection of assessments that should have been collected for 1995 and 1996 as appropriate. Employers who fail to register at the end of that period should be prosecuted to the fullest extent of the law and required to pay WCB all outstanding assessments.

Returns of accidents: The EAC is of the view that the responsibilities imposed on employers under section 133 can be greatly enhanced by strengthened requirements on workers to provide notice of accidents under section 22. It's been our long-standing view that section 22, as currently written, provides an opportunity for abuse and prejudices the employer's position.

We propose that all claims for workplace injuries, except those of course that are occupational disease and obviously latent, filed outside the six-month period should be rejected without exception.

Inclusion of such a provision in this round of reforms is consistent with the overall objective to restore accountability and responsible behaviour from all parties.

Ms Sherri Helmka: Measures relating to Bill 165: As the government is aware, the employer community was strongly opposed to many of the provisions contained in Bill 165 introduced by the previous government. Elements of that bill have added significant cost to the system and have in certain instances undermined, or have the potential to undermine, the effectiveness of existing programs.

We believe that in this short-term package of legislative reforms significant corrections can be made to the finances of the WCB, and the effectiveness of existing practices and programs restored.

In regard to permanent partial disability supplements, section 147, the supplements under this section, when introduced in 1989, were intended to be a bridging supplement until age 65 for disabled workers unable to return to work and for whom rehabilitation was not likely to be effective. The change introduced by the NDP distorted that intention and simply awarded some 40,000 workers an additional \$200 per month regardless of the extent of the individual's needs or the extent of the injury. The change to these supplements resulted in an additional cost of \$1.5 billion to the system.

To compound the cost of this program, the WCB interpreted the original provisions of subsection 147(4) to the effect that once a supplement is awarded, it cannot be rescinded, even though the act requires reviews at two and five years post award. The impact of this administrative decision increased the WCB's future liability by \$350 million in 1994.

We believe that the government has a number of options available to address this problem:

Develop a review process to determine individual need for the additional \$200-per-month supplement.

Limit payment of the \$200-per-month supplement to age 65.

Clarify the legislation to allow the WCB to revoke the supplement, and the additional \$200 per month, at the time of the review prescribed in subsection 147(13).

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In regard to return to work, the changes introduced by Bill 165 have frustrated the attempts of employers to develop and promote meaningful re-employment opportunities and modified work programs. This has imposed barriers where none previously existed and complicated a process that worked quite well. Return to work information is not medical in nature; however, these provisions have now medicalized a non-medical issue, to no one's benefit.

We propose these subsections of the act be rescinded.

The Vice-Chair (Ms Barbara Fisher): Excuse me. I would just like to advise you there is one minute left in the presentation. If you'd like to reserve it for one question, that's fine. Otherwise, you have one minute.

Ms Helmka: Okay, I'll go on with this.

In regard to experience rating, experience rating has been an unqualified success in reducing the incidence of accidents by more than 30% since 1989. At the same time, the duration of short-term disabilities has declined from 110.8 days in 1991 to 71.6 days in 1994. The changes introduced through Bill 165 will, if acted upon by the WCB, undermine the effectiveness of the program and measure processes surrounding health and safety and return to work programs rather than measuring the results of those programs.

Until the longer study is complete, we urge the government to rescind subsection 103.1(3) of the act.

On behalf of our members, we thank you for the opportunity to make these comments.

The Vice-Chair: Thank you. You've taken it right to the wire and unfortunately we will not be able to have any questions, but thank you very much for coming.

INJURED WORKERS' CONSULTANTS

The Vice-Chair: I would ask the next group to come forward, the Injured Workers' Consultants. While that's happening, for anybody who arrived late, I'd just like to remind you that there is a 15-minute presentation and question and answer period. Both of those are inclusive so it has to be done within the 15-minute period. If you'd like to leave it open for questions at the end, then please, I guess, acknowledge the fact that the time is going while you're presenting your brief as well. I would invite you to introduce yourselves, please.

Ms Marion Endicott: Good evening. My name is Marion Endicott. With me is Orlando Buonastella and John McKinnon. Each of us has represented injured workers for many years, primarily in the context of our work at Injured Workers' Consultants, which is a community legal clinic which provides free representation for injured workers having problems with the WCB.

In cooperation with the Union of Injured Workers and the Industrial Accident Victims Group, we have made presentations to the standing committee on resources development for some 17 years. We have felt that our experience and insight into workers' compensation has been valued over those years.

We have appeared before your committee during the Davis government, the Peterson government and the Rae government. Your committee, we regret to say, is the one that appears least interested in hearing what injured workers have to say. There are injured workers in this room who have presented to you in the past and they were not advised of these hearings until it was too late.

I would like to point out in particular Mr Eddie Couchi, whose name you may well know. He is from the Asbestos Victims group and he's been presenting and fighting for the rights of asbestos victims for 30 years now. He was not advised of these hearings. He's here tonight; he's not able to say anything. We also have Barbara Pyzot, for example. She's in the crowd. She made a request to present to your committee and was simply told, "There's no time." There are many injured workers who would like to be speaking to you of their experiences and their ideas and they have not had that chance with this committee.

The Davis Conservatives were not afraid of public debate. This standing committee had a session on the steps of the Legislature in 1983 in order to hear from all of the injured workers who were advised of those hearings in notices that went out with the monthly cheques from the WCB.

We think that a new government and new MPPs who are just becoming familiar with the complexities of the workers' compensation system should be proceeding with caution and humility. Instead, we see a bill, Bill 15, which attempts to rapidly respond to simplistic misconceptions and not real needs. We call these misconceptions "myths."

The first myth is that the WCB is facing a debt crisis because of its \$11.4-billion unfunded liability.

Mr John McKinnon: The facts are otherwise. The WCB is not in debt. It has always been able to pay

injured workers out of the premiums collected from employers. It has never borrowed a cent.

The unfunded liability is not a debt, it is the projected future cost of all claims on file minus the \$6.8 billion in savings already in the WCB's reserve fund. The jump in the unfunded liability, which began in 1985, was just a paper change reflecting the introduction into the legislation of cost-of-living adjustments. There was no increase in injured workers' benefits nor in employers' costs. Inflation adjustment is done without cost to employers—and we refer you to the government's report from Paul Weiler.

Everyone has their own personal unfunded liability. Multiply your own income or living expenses by the number of years of age to 75 and subtract what you have in the bank. For example, a 45-year-old MPP living on \$50,000 a year with \$50,000 in RRSPs in the bank has a personal unfunded liability of \$1.45 million, even if that individual doesn't owe a cent to anyone.

Ms Endicott: I'd like to point out that attached to our brief is the section of Paul Weiler's report that does talk about how there was no increased cost to the employers by bringing in the cost-of-living adjustments.

The second myth is that the unfunded liability has been increasing and therefore WCB funding must be out of control.

Mr McKinnon: It's our view that the unfunded liability is not a concern in the WCB context. The private insurance industry is different. It is required by law to be pre-funded. It cannot have an unfunded liability because, with competition, it may have few or no customers to generate revenue in future years when it has to pay out.

The WCB is funded differently. It is funded on a collective liability basis. It was established in 1915 and funded on a "pay as you go" basis at the request of employer groups.

As long as participation in the workers' compensation system remains mandatory, and preferably for all employers, there will be adequate revenue to fund the system at lower premiums than a private insurance style pre-funded system, and this will also allow more money to remain in the hands of employers for ongoing investment in their enterprises.

The concern is not the projected future cost but ensuring an adequate collection pool of income each year. The concern for WCB funding ought to be directed at bringing all Ontario's employers into the WCB system.

Ms Endicott: Myth number 3: Since the unfunded liability has been increasing, common sense tells you that benefits to injured workers are too open-ended.

Mr McKinnon: If the unfunded liability concerns you, don't blame the cost of WCB benefits on injured workers. Benefits to injured workers were reduced in 1989 by Bill 162 which replaced the permanent pensions for permanent disabilities with discretionary payments for deemed wage loss until age 65.

Injured workers paid again in 1994 when the full cost-of-living adjustments were taken away by Bill 165.

According to the WCB's 1994 annual report, the benefits expense was at the lowest level in 10 years. The

cost of injured workers' benefits is now 36.5% less than the cost a decade ago.

So don't blame injured workers' benefits for this "actuarial speculation" that is known as the unfunded liability. Benefits are going down while that figure is going up. In our submission, you ought to find out what is going on before you begin to attack injured workers' benefits.

Ms Endicott: Myth number 4: Employers' WCB premiums are rising at a rate that is out of control.

Mr McKinnon: Again, the facts are contrary. According to the WCB's annual report, the average premium from employers has been steadily decreasing. The average premium is now less than employers were paying in 1988. Compare that with rate increases in the private insurance industry for auto, home and life insurance premiums.

The effective rate is even lower because of, as Mr Biggin was pointing out, the expansion in experience rating and the increase in rebates. In 1994, as was pointed out, the net cost of rebates to employers was \$359 million for schedule 1 employers, and this amounts to a kickback of 14% in the premiums collected.

So Ontario's premiums don't look as bad as some would like us to believe. As Mr Biggin pointed out, compare that to the treatment of the workers injured in those same workplaces; they received \$22 million less in temporary benefits than their employers received in rebates.

In 1994, the WCB still paid injured workers full cost-of-living increases for over 11 months, gave employers a reduction in premiums, gave \$359 million to employers in rebates, plus wrote off \$173 million in employers' bad debts, bought a \$180-million new building, and still declared \$130-million profit. That's not bad for an institution in crisis.

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Ms Endicott: Myth number 5: The cost of WCB premiums is reducing Ontario's competitiveness and reducing investments in Ontario's industries.

Mr McKinnon: Last week, the Canadian Auto Workers' submission to this committee reported that in 1994 there was \$8.8 billion invested in the manufacturing sector of Ontario and that was the most for any year in Ontario's history. Ontario has an infrastructure and advantages that provinces with low WCB costs, like Prince Edward Island, cannot offer. Executive salaries are up by 18%. The average wage of a chief executive was reported by the Canadian Auto Workers to be \$632,000 last year and this suggests that our WCB rates are not a barrier to investment or profits.

Ms Endicott: Myth number 6: The previous board of directors was narrow and Bill 15 broadens it.

Mr Orlando Buonastella: The previous board of directors represented an equal number of employers and trade unionists. It came to the consensus that it needed to be expanded to include the organized injured workers' movement, ONIWG, that presented today, and small business. They undertook to lobby the new government to bring this about.

What was the government's response? Fire the new board of directors. Appoint a new slate that will have the stomach to implement the cuts in workers' benefits that will come with Bill 15, part II, in the spring, as announced by the government.

We note in passing that when opposing the NDP's Bill 165, the Tory caucus brought in amendments—and we have them here in the appendix—saying that one injured worker should be and would be in the panel to recommend directors for the board. In Bill 15, injured workers' representatives are not even mentioned. Some progress.

Ms Endicott: Myth number 7: Bill 15 is not an attack on workers' benefits.

Mr Buonastella: Except that in introducing Bill 15, the Minister of Labour said it will set the stage for further comprehensive reform next spring. We call it an appetizer in that sense. What did Ms Witmer say these reforms would be? Reduction in the compensation rate by 5%, rethinking the idea of lifetime pensions, reducing the monthly FEL awards up to 40%, a three-day waiting period and, to add to this balance, a 5% reduction of premiums so that employers will benefit directly every time an injured worker is thrown on the street. This is why Bill 15 must have a new board, a board to stomach these changes.

But Bill 15 will affect benefits directly as well. The new purpose clause is being brought in to have financial concerns discipline the entire compensation system, including WCAT, the appeals tribunal. What does this mean? The board has a legislative responsibility to make decisions based on the true merits and justice of each case. This will now be compromised. Financial concerns, the concern about cost of a claim or the concern for precedent-setting cases—these concerns will now *de facto* be considered. In doing so and in adopting a narrow cash register approach, justice and fairness will be seriously compromised.

Let's take the example of the Elliot Lake silicosis cases or the Johns-Manville workers—and we have one here tonight. The WCB began the special rehabilitation assistance program in 1975 for these miners. Although receiving a partial disability pension for lung disease, these workers returned to their old workplace because they could not earn a living any other way. Many got sicker and died unnecessarily. The WCB then agreed to pay full benefits for those who came out and looked or trained for other work.

The program would likely not survive these days, with the new concern for financial responsibility. It would have cost less to let them die, having returned to work at no wage loss and just paid their families the death benefit when the time arrives. This is the cost-cutting approach that we're putting in place for our sons and daughters. Let them work, even if we know it's killing them.

Ms Endicott: Myth number 8: Fraud and overpayments are a major problem.

Mr Buonastella: The Ontario WCB has received national and international awards for its anti-fraud technology. There's no evidence that fraud or overpayment is a more significant problem today than under the previous

Conservative, Liberal and NDP governments. The difference is that today the WCB has an entire department that deals exclusively with fraud and overpayment, and the 1994 annual report gives no figure to assess how effective they are. Why don't you propose a value-for-money audit of the fraud investigation unit before you entrench so-called anti-fraud measures in the act?

Most of the injured workers we deal with think that they are being defrauded. These are injured workers who survive on small pensions from the board, who are pushed on to welfare, workers who receive a small FEL benefit for a phantom job they don't have. You may say that we and they are biased, but a lot of your constituents are equally biased. But if you think we are biased—and we disagree—we urge you to read the Ontario Medical Association submission to this committee on Bill 165 last fall, and I included it in our addendum.

The OMA reported a disturbing trend by injured workers to request non-reporting of their WCB injuries at the apparent request of the employer. We have provided the brief to you, as I said, and I should say that Elizabeth Witmer listened to that submission very attentively, as we were in the audience, so do something about that.

Ms Endicott: Myth number 9: Injured workers must be forced to report material changes.

Mr Buonastella: In the interest of brevity, I want to say, without repeating what's here, that this is the first time a section of the act is being introduced without telling us the reason for it. Are we supposed to tell you the reason for this change? When we look at it, we think it's totally unnecessary because a lot of these material changes, like a changing in employment condition, a changing in employment status, are not relevant to people who are on a pension, to people who are on a supplement, or to people who are on a FEL benefit, because there are regular reviews scheduled for that. So there's no necessity at all to introduce these changes.

The Vice-Chair: I just might note you have one minute left in your presentation time.

Ms Endicott: We hoped by reading we'd be quicker than usual, but we will conclude now, and in concluding, I'd like to read from a document which we think summarizes the general approach of the government fairly well: This government "has developed a plan which will eliminate the unfunded liability while ensuring the principles of fairness and efficiency for workers and employers alike. Among its plans are reducing benefit levels, improving the ongoing review of long-term benefits, strengthening definitions of compensable accidents, and improving the review of worker recovery periods."

This happens to be not a government document that I'm quoting from. I replaced the words "Marsh and McLennan" with the word "government" as I read it out. This is a special-interest group that this government is representing. The entire document is appended to your brief there, and a lot of it reads like the current government documents.

The Marsh and McLennan company goes one step further. After the government makes it very profitable for them, they would then be interested in taking over the

WCB, or, to put it in their words, the government should "Introduce meaningful long-term changes to the structure of the system with a view to handing stewardship to the private sector." That's page 4 of the same document which you have.

Is this what Bill 15 and the study under the minister without portfolio, Cam Jackson, are all about? We urge you to withdraw Bill 15 and to listen to the people for whom the system was created, the injured workers of Ontario.

The Vice-Chair: Thank you very much for your presentation. That does expire the 15-minute time allocation, so unfortunately or fortunately, there won't be any questions this evening.

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BOARD OF TRADE OF METROPOLITAN TORONTO

The Vice-Chair: I would ask that the next group come forward, please, the Metro board of trade. Welcome this evening. I would ask that you introduce yourselves, please, and who you are representing.

Mr Vincent Johnston: My name is Vince Johnston, and to my right is David Brady. We're both members of the labour law committee of the Metro board of trade.

Ladies and gentlemen of the committee, you have the materials in front of you. I won't go through the history of the board of trade. Suffice it to say the board of trade is the largest board of trade or chamber of commerce in the country. It represents a broad spectrum of employers in this province. We have played and continue to play an active role in providing constructive criticism to the government and to the WCB with respect to issues concerning the workers' compensation system, and we will continue that role.

I don't propose to run through the submissions for you. What I propose to do rather is highlight some of the submissions and elaborate on some of the rationale that's contained in those submissions.

Employers in the province are concerned. They are concerned because the magnitude of the problem facing the system is obvious and it's pressing. There are problems in three key areas: There are leadership problems, there are financial problems and there are systemic problems. To the royal commission we made submissions which identified these as critical issues, and they continue to be critical issues. These critical issues have led to a financial crisis and they've led to a crisis in confidence on the part of especially employers in the province.

In part, the crisis has arisen because the system which has been given the board is not managed, because it's unmanageable. I was reminded of this fact today when I received a letter from the chairperson of the Workers' Compensation Appeals Tribunal, Mr Ellis. His letter to me was apologizing to me on behalf of their tribunal for the lengthy delay in getting a decision to us. I found this quite curious, but you might understand this letter when you understand the context.

The case was before the tribunal in May 1993. We had a one-day hearing. We concluded that hearing on that day. Post-hearing submissions were requested. All of that process was finished March 1, 1994. There are issues of

credibility in the case, and yet over two years—two and a half years now—since the date of that hearing, we do not have a decision.

Mr Ellis, in his letter to us, said the following: "Gee, we're sorry"—and I'm paraphrasing, obviously—"but part of our problem is the fact that the pre-government to this particular government introduced a bunch of legislative amendments, and those legislative amendments have proven to be complex and time-consuming and have led to difficult issues. We didn't understand the impact that those legislative amendments would have on our jurisdiction until it was too late, so you're caught in a backlog and you're just going to have to wait for your decision. We can't say to you, 'You're going to get priority because your decision's this long overdue.' It's just going to have to wait till everything else."

That, I think, exemplifies the crisis in confidence that employers have in the system today. That crisis in confidence can't be underestimated. The employers right now are questioning the cost of doing business in Ontario. They're questioning the decision-making by the board. They're questioning the decision-making by the Workers' Compensation Appeals Tribunal. They're questioning what they view to be aggressive collection and rating actions by the board against employers with what appears to them to be a laissez-faire attitude towards collecting overpayments from workers.

All of these things are problems. The question that I think faces this committee is, does this bill fix all those problems? The answer is no, it doesn't. What it does do, though, is it puts the building blocks in place, and those building blocks need to be there in order to restore confidence in the system. All of the building blocks need to be there, ladies and gentlemen of the committee. If you remove some of those building blocks that are contained in Bill 15, these amendments just aren't going to work.

The building blocks I see starting at the top, and at the top is the WCB itself. The WCB should be the manager of the system. It has not been the manager of the system for an excessive period of time. It needs to take a leadership role in determining issues concerning entitlement and issues concerning vocational rehab, concerning collection activities. It should not merely be a tool for achieving social policy objectives.

Bill 15 contains within it amendments to the composition of the board of directors. We cautiously approve the amendments which are contained in Bill 15, but quite frankly we need the right people in place. We need strong people. We need people with proven track records in turning industries around. The president and the chairperson of the board must be senior insurance executives. They must have actuarial training, because the board is, after all, in the business of insurance. We need these people in place in order to restore confidence in the system. Right now we're at a critical stage of the process for this system. We need key people, people who can pull the system out of the mess that it's in.

The board of directors which has been proposed in Bill 15 again we cautiously approve. We say no to bipartisanship. I don't need to address the types of concerns that Dr Tuohy raised in her reports concerning the agency. The

board, though, has already experienced and has exhibited a great degree of inaction with respect to policy matters in the past, and if we go to a bipartite model, the anticipation is from the employer community that that inaction will become even worse.

We don't need brokered decisions at this stage of the process. We don't need decisions that are a result of negotiations going on in back rooms. We need decisions that deal with the real issues in place.

One of the facts which comes to my mind which shows the problem with the previous system concerns the policies that came into place with respect to section 54 and the obligations to re-employ. Somehow the board determined, as a result of what process we know not, to institute a just-cause test. I defy anyone in here to find a just-cause test in the workers' compensation system. It just isn't there. The only thing that employers can imagine happening is that some kind of brokered arrangement was made, and that is not in keeping with the spirit and intent of this act.

The other building block which we've identified is the concept of financial accountability and responsibility. We find it helpful that that has been enshrined in the purpose clause. We also find it helpful because this reminds everyone that there are two major groups of actors in this system. There are employers and there are workers, and both groups—both groups—were supposed to benefit from this entire process. Workers were supposed to be able to get their benefits with a minimum of difficulty, employers were supposed to have financial certainty, and they were supposed to feel as though they were contributing to a system that would spend its money the way it itself would spend its money, and right now that's just not there.

Section 7 of the proposed amendments reinforces the board's obligations. Again, we find that helpful. We do have one concern, and that concern is that the proposals with respect to financial accountability and responsibility leave one actor outside of the scope of those proposals. That actor of course is the tribunal.

The tribunal, in the not very distant past, has made a number of decisions which are completely contrary to board decisions. They have expanded entitlement for chronic pain disability, they have expanded entitlement for stress, and what that has caused in the system is a reactive mode to be instituted by the board, but it has also resulted in a number of costs which no one could have anticipated when the system first came into place. The tribunal, unfortunately, is making decisions on a one-off basis without a full appreciation for the scope of its decisions, and we would ask that one of the factors that the tribunal have to take into account in its decision-making process is the fact that its decisions must be financially accountable and must be financially responsible.

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A further building block that we have identified concerns the checks—and checks is c-h-e-c-k—and balances provided by the government. We find that this restores a level of confidence in the system, a level of confidence that is lacking right now.

Again, cautionary notes: We must ensure that that type of process does not become too intrusive. We must ensure that we don't end up with a system that's a tool for social policy objectives. We just need to know that someone is there at the end of the day, looking over the shoulder of the board of directors to ensure that it's doing what it's mandated to do under the act. If they do that that will restore a great deal of confidence.

Again, confidence in this area is restored when we see things like the memorandum of understanding being put in place, strategic plans. Quite frankly, employers want to know how their money's spent. They want to know how the board's going to deal with this system. Right now we don't have a proactive board, we have a reactive board. The board's reacting to tribunal decisions, the board is reacting to pressures from workers, the board is reacting somewhat to pressures from employers. But we don't know where it's going, we need to know where it's going, any corporation would want to know where it was going, and right now the board doesn't know where it's going. That, I think, would be remedied with the memorandum of understanding in place.

Again, the value-for-money audits greatly assist in this process. It's exactly what is needed in order to ensure some accountability. One of the first value-for-money audits which should be conducted is with respect to the whole voc rehab system. Right now, in the view of many employers, there's untimely intervention, there are unrealistic goals being set, and at the end of the process it seems that neither workers nor employers are fulfilled, or feel fulfilled, with respect to what has been occurring.

The final building block and perhaps the one that's most important is worker and employer accountability. The board of trade fully endorses and supports the obligations which are imposed by Bill 15 and the penalties which are imposed by Bill 15 for failure to abide. Right now, employers are frustrated by the process.

In section 54 hearings, for instance, the board quite often finds in favour of workers because it relies on just-cause tests or on unrealistic financial viability tests. Employers quite often appeal those to the tribunal, and oddly enough, the tribunal sometimes finds in favour of employers. But no one seems to be too concerned about collecting overpayments. By implementing in the Bill 15 amendments the fact that overpayments are debts which are due and owing, we have full confidence that those debts will in fact be collected.

The material change in circumstances provision again is a very good idea, one which we think will bring some more accountability to the process, and the reason it will is it's going to force employers and workers to participate in the process, something which neither group has been doing lately. Both employers and workers have been sitting back. They've been waiting for the board to intervene. The board can't intervene because it doesn't have enough resources to intervene. By ensuring some self-reporting and some greater responsibility on the part of the major actors, you ensure that this entire system is going to start to work. In that regard, we're fully in support of the provisions with respect to the material change in circumstances.

A cautionary note, and the final note, really, with respect to the issue concerning obligations and penalties: We would ask this committee and we would ask the Legislature to consider a process of education. The reason we're asking for that is because of the potential impact on both employers and workers of a finding of a failure to abide. Right now, as I said, the process is one in which both employers and workers to a certain extent aren't doing anything. This bill proposes to make both parties self-report, and I don't believe that is a concept that has received a great deal of attention to date and it's a concept that does need to receive a great deal of attention because it does change the way the system operates.

In the final analysis, ladies and gentlemen of the committee, all of these building blocks have to be in place. They're a good first step. They're not going to fix all of the problems, but they need to be there in order for any of us to be able to fix the problems. We thank you for the opportunity to make submissions.

The Vice-Chair: We also thank you for your presentation. We have time, a two-minute period left, that we will start with some questions. The official opposition is first this time.

Mr Duncan: The Injured Workers' Consultants raised a very interesting point in their recitation of the various myths surrounding the WCB, and it was one they raised in a meeting with me that I was frankly stymied on an answer for. I'd like to ask you to address the question, and I'm paraphrasing what they said. The unfunded liability's not a debt, and it shouldn't be treated as a debt or considered as a debt. How do you respond to that, first of all? Second, I'm assuming that you see it as a problem, and in terms of its being a manageable problem, how do you see it being addressed?

Mr Johnston: Two issues: One, it is a debt. It's there right now. It's been calculated on the basis of what the board will have to pay out based upon the injuries that are in the system to date. It certainly is a factor that's reflected in employers' cost statements; it's a factor that's reflected in the whole NEER program. So I'm fundamentally in disagreement with the proposition that it's not a debt. It is, quite frankly, a debt.

In terms of how to manage it, there are a number of ways to manage that process. Bill 15 isn't going to do it. What Bill 15 is going to do is ensure greater accountability by all the parties with respect to the issues.

Some of the potential problems that are in place right now that Bill 15 may address are problems, for instance, with respect to employers who aren't properly reporting payroll papers. Bill 15, with respect to reporting obligations, could remedy that.

Other problems could be the worker who sits at home and waits and waits and waits for someone to contact him or her, and until someone does, that person's not going to say anything. The quicker we can get that person off the system and back to the workplace, the better.

Mr Duncan: Just one supplementary, Madam Chair.

The Vice-Chair: A very short one, please. Time has expired.

Mr Duncan: You noted in your presentation that, while supportive of the multi-stakeholder model, which

we are, you noted some concern about the actual composition of that three- to seven-member board. We are proposing an amendment that would be more specific with respect to the numbers of appointments. Specifically, it would indicate that there would be equality between workers and management, exclusive of the non-stakeholder members, if you will. Would you be supportive of that kind of amendment, or are you looking at something different?

Mr David Brady: I get my chance for a 30-second response. I think the board of directors has to have some flexibility and it ought not to be strictly structured such that you have so many of this and so many of that, because what it does then is it introduces blocs and it introduces agendas and a voting approach to practical problems which I think must be considered practically on their merits.

Mr Duncan: So then what you said in here is less concerned—

The Vice-Chair: Excuse me.

Mr Duncan: Oh, I'm sorry. I apologize.

The Vice-Chair: That was a second supplementary. Sorry, but in fairness to everybody else who's here tonight, I don't want to delay them into the midnight hours as well. So thank you very much for your presentation.

DURHAM REGION INJURED WORKERS

The Vice-Chair: The next group tonight is the Durham Region Injured Workers. Would you please come forward. I'd ask that you please introduce yourself and, obviously, who you represent.

Mr Rick Williams: I'm Rick Williams. I'm the president of the Durham Region Injured Workers and the regional vice-president for the Ontario network.

As a union representative and an injured workers' representative, I have seen first hand the workings of the system and the effect it has on those who try to access it. I have also seen first hand the effects of three major changes in the law within the last 10 years: Bill 101, Bill 162 and Bill 165. As such, my submission will focus on the cuts to the benefits, entitlement, privatization and the compensation system. The system definitely does not need another massive change in benefit structure, and with three major revisions in the last 10 years, the system has been made worse, not better.

Cuts in benefits by 5%: It's not the injured workers who are responsible for the escalating mythical debt of the Workers' Compensation Board; it is the employers who are responsible. The reduction in the benefit levels represents the blame-the-victim approach that wouldn't offset the 5% reduction in the employer assessment rates. If the assessment rates of the employers had been increased over the years instead of holding the low rates, part of the problem would have been solved.

Rolling back workers' benefits and entitlement while at the same time lowering employer assessment rates is the type of strategy that allowed the liability to grow to its present state in the first place. WCB coverage should be considered a cost of doing business, and the cost of assessments should not be used as a threat to the payment of the benefits of the injured workers.

Workers lose when they are injured on the job and receive only 90% of their net income. They also suffer physically, mentally and emotionally, and even suggesting reducing benefits to 85% is an affront to their human dignity. It is in fact difficult for injured workers to even find out how their benefits are calculated, let alone what information has been given to the WCB to set the earnings base. It is left up to the employers to ensure that the additional information about overtime, incentive programs and shift premiums are included in the calculation of the net earnings.

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The employers' position is that 90% of the net rate is too generous and that the payment of benefits at this rate is bankrupting the system. Injured workers are not getting rich off the system.

The Conservative government business caucus and newspapers fail to report that the 1994 Workers' Compensation Board annual report discloses: \$6.6 billion in savings in the bank; paid rebates to good employers which totalled \$359 million; wrote off \$173 million in bad debts to employers; purchased a new building at \$180 million; still paid injured workers full cost-of-living increases and temporary disability benefits, at a cost of \$337 million. And the WCB still reported a profit of \$130 million last year.

The government is planning ways to take away lifetime permanent disability pensions awarded to people injured before 1990 and to reduce the future economic loss awards by 15% to 40%. This has to be stopped.

Pre-Bill 162 injured workers were assessed for pension awards by board medical personnel based on the Ontario permanent disability rating schedule, a chart compiled by the board in 1972, which states the percentage rate considered appropriate for each disability. This rating schedule contains percentages based on the average unskilled worker's "impairment of earnings capacity, estimated from the nature and the degree of injury." Pension awards do not take into account the type of work the worker was doing, the worker's educational background or the ability to return to work.

These pensions are based on the earnings at the time of accident, and under Bill 181 in 1985 no increase was provided for inflation. In the PLMAC, the inflation protection that was given to injured workers as a permanent right, set in law, has been bargained away by people who will never have to suffer the consequences of this. The failure to protect long-term workers' compensation benefits against erosion by inflation is already a reduction of benefits.

The future economic loss awards have been the fulfilment of the nightmares of injured workers, and I believe those workers with dual awards for permanent disabilities are at a far greater disadvantage than those who received pensions under the old system. They are not based on the actual post-accident earnings but on the power of the board to deem phantom wages for what they consider the injured worker likely to be able to earn in suitable and available employment. Workers who have been unemployed for the two years following their initial FEL determination are magically deemed to have received pay

increases within that two years, and by the time the first review comes around, their FEL is decreased to take into account the supposed wage increase that they have gained over the two years of experience.

The fact of the matter is that the dual award system does not adequately compensate injured workers for the degree and severity of their injuries. Coupled with that is the board's position that they cannot review the FEL awards until the statutorily mandated review times, which means that injured workers must live with the changes in their financial circumstances until such time as the review date occurs.

How then should an adequate wage replacement system be structured? At the very least, it should be based on the actual wage the injured worker is earning at the time of the determination. It should not be based on deemed wages.

Under workers' compensation, employers are protected from civil suits brought against them by injured employees, and this was the historical compromise behind the very existence of the workers' compensation. Give the workers back the right to sue the employer and only one accident could bankrupt a small company. Maybe then realization by the very cheap cost of this protection would be recognized by the employers of Ontario. Cuts to the benefits will force many more injured workers and their families on to welfare or family benefits just to survive, which will shift the financial burden to taxpayers.

Premier Harris made public statements that cutbacks to workers' compensation benefits would save taxpayers money. In light of the fact that the Workers' Compensation Board receives absolutely no public funding, this distribution of inaccurate information is seen as a deliberate attempt to manipulate public opinion in order to satisfy the demands of business.

The unfunded liability is a projection of future costs made with no consideration of future assessments. In short, it is a term that designates how far behind on payments due to injured workers employers would be if they ceased to pay for their current obligations.

The employers paid very small assessments for years while accidents continued to happen in the workplace. The average employer assessments have been steadily decreasing and are lower than they were seven years ago: Some \$3 per \$100 payroll in 1995, versus \$3.02 per \$100 payroll in 1988. WCB benefits paid are now the lowest in 10 years at 36.5% decrease. In a time of deficit reduction, it makes absolutely no sense to further reduce WCB assessments.

The business lobby has admitted that at least 20,000 employers in Ontario are legally avoiding WCB assessments at an estimated annual cost of over \$60 million, yet no effort has been made to collect this money. Every employer should be required to have compensation coverage for their employees. This would increase the funding base, and give much needed protection to injured workers province-wide.

There is no reason why some employers can get out of the costs of WCB coverage for their employees. The fact that the types of employment that are exempt from reporting are considered low risk for injury—for example, banks, insurance companies, doctors' offices, private

homes for the aged—and when the potential for serious injuries are contemplated, particularly considering the instance of repetitive strain injuries, this is not acceptable. There cannot be two classes of employers any more than there should be two classes of workers. Exempting classifications of employers dilutes the concept of collective liability.

Changes to the kinds of injuries covered by the workers' compensation will mean many injured workers will not receive benefits. The government wants to change entitlement requirements to effectively deny coverage to most gradual onset of chronic pain conditions—injuries from repetitive strain injuries, chronic pain, back pain and stress. These proposed changes will have a drastic effect on all present and future claims.

In the manufacturing sector with recent restructuring and the implementation of synchronous manufacturing techniques, production workers have had more demand to produce more, better, faster and cheaper for the sake of being competitive. The direct result leaves workers working a 56-minute work hour, which places stresses on their bodies that human beings were never designed to withstand. More than 30% of lost-time claims are for back injuries and the majority of claims have proven to be soft-tissue injuries such as repetitive strain injuries, tendonitis, epicondylitis and carpal tunnel syndrome. This is the main reason employers are demanding cuts and entitlement limits on the type of injury.

It is unrealistic to believe that compensation for stress-related disorders can be provided efficiently and systematically through a compensation system in which eligibility for benefits depends on proof of cause. We have probably all seen cases in which a person has had a compensable disability for now and is now totally disabled but is denied full benefits on the grounds that the present disability results partly from other causes, such as of subsequent sickness or other dramatic experiences, which affect fitness of the injured worker to work.

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The business caucus and the employers are fully aware of the statistics provided by the Workers' Compensation Board in regard to the type of injuries which are costing the system the highest amount; therefore, rather than reduce accidents and provide a workplace which will eliminate these injuries, they recommend to change the definition of "accident" to eliminate the benefits for these injuries.

In the large proportion of the occupational disease cases and soft-tissue injuries, it is impossible for the medical profession to establish a diagnosis let alone determine the cause even when the diagnosis is clear. The victims of disease generally go without compensation not because it is established that the disease did not result from employment, but because the cause of the disease is unknown. When the cause is unknown claims are not approved.

In cases where the injury results in hospitalization, why should the worker have to wait three days? Private insurance companies will pay benefits for hospitalization effective immediately without any waiting period. Sick pay plans are now very extensive in Ontario and the

cause of the disability is no longer relevant to the eligibility for benefits. This will relieve the employers of their liability under the workers' compensation to pay the injured worker from the day of the accident and shift the burden to insurance companies. This will also encourage workers covered by private insurance to claim from their insurance companies and not report work-related accidents to the Workers' Compensation Board which, in turn, will cause complications if the claim is filed later.

Workers' compensation reports the majority of the claims do not involve lost time and a very high percentage of the claims are of relatively short duration. One injured worker has suggested the employer be responsible for paying full wages for the first month following a work-related accident and payment for any period beyond this time be executed by worker's compensation. This would allow the adjudicators time to review the details of the accident, doctors' reports, and benefits could be processed, if necessary, at the 30-day period.

The implementation of a three-day waiting period could force injured workers with repetitive strain injuries to stay at work because they can't afford to report an injury. This could have serious repercussions by exacerbating an injury and costing the system more money in the long term.

The Vice-Chair: Excuse me. I just would like to advise you, you have one minute left.

Mr Williams: The original purpose of the board's medical advisers was to interpret medical opinions expressed by the treating physicians and specialists for the adjudicators. The board's doctors also assessed injured workers for permanent disability pensions prior to the inception of Bill 162.

Unit medical advisers' opinions usually conflict with medical reports sent by the family physicians and specialists. Interpretations are often misconstrued to the adjudicator and it is the injured worker who suffers.

One solution for saving money would be to get rid of the board doctors. With the implementation of the new mediation system, adjudicators and mediation officers will be speaking directly with the treating physicians. There will be no need for board doctors to intervene; their jobs will be redundant.

I would like to thank you for the opportunity of allowing me to make this presentation on behalf of the Durham Region Injured Workers and the southeast district of the network.

The Vice-Chair: We thank you very much, and having used the full 15 minutes there won't be time tonight for questions and answers. But thank you for coming.

ONTARIO CHAMBER OF COMMERCE

The Vice-Chair: I would ask the representatives of the Ontario Chamber of Commerce to come forward, please. Good evening. I'd like you to introduce yourselves, please, if you would, and identify whom you're representing.

Mr Steve Raymond: My name is Steve Raymond and I am the chair of the Ontario Chamber of Commerce's employer/employee relations committee. I am one of the

thousands of volunteers across this province who donate their time to chambers of commerce throughout this province. I have with me Ian Cunningham, who is the director of policy for the Ontario Chamber of Commerce.

I'd like to take you to our submission, which I hope you all now have, and I have attached to it the submission that the chamber made to the Royal Commission on Workers' Compensation this past spring. I draw that to your attention because of the statements that are made there by the chamber of commerce on the issue of workers' compensation.

You will see in the introduction, which is the first page of that submission, that in recent surveys done by the Ontario Chamber of Commerce, workers' compensation has received a significant priority from our members. In fact, in 1995 our survey of chamber members indicated that repairing the workers' compensation system was exceeded as a priority issue by only the elimination of Ontario's deficit and the existing debt load. In other words, for our members, fixing workers' compensation was the second most important thing that government should direct its efforts towards, and it with in that background that we come now and present to you on Bill 15.

Just by way of background, the chamber, as many of you will know, is a business association that represents over 65,000 employers in the province of Ontario. Our members include large and small enterprises in all sectors of the economy and from every region of the province. We believe, therefore, that we come to you and speak as—I don't want to undermine other business groups that come before you, but we come and we speak with perhaps the broadest membership of any business organization that will appear in front of you, and I've already told you what our members think about workers' compensation.

In our view, there are three significant reforms in Bill 15. Those are governance, the introduction of increased financial accountability and efforts made at fraud and revenue loss. I'd like to speak briefly about each of those three issues, and I may make some passing comments about some of the other reforms in the bill.

Obviously the key issue with the governance is the new board of directors of the Workers' Compensation Board. We think there are a couple of things this committee should consider in relation to the board of directors.

First of all, we'd like to tell you about what our board of directors would look like. We think members of the board of directors should possess the following personal qualities, attitudes and experiences: One of those is experience making a positive contribution as a director of a large organization because, after all, that is what the job is; second, to have a business-mindedness and an ability to understand financial statements; third, someone who is a strategic thinker; fourth, someone who has an ability to consolidate and analyse complex information.

In terms of experience, we think it's critical that actuarial and insurance experience be present because, after all, the workers' compensation system is an insurance system. We would recommend, therefore, that the new chair and president have strong actuarial and insurance background and knowledge.

The bill, as it now is, refers to the board of directors as being "representatives of workers, employers and such others that the Lieutenant Governor in Council considers appropriate." In the chamber's view this section must be looked at and clarified so that we do not end up with a board of directors that is bipartite. The failed experiment of the Workplace Health and Safety Agency where the board of directors was bipartite is proof enough to the government that we ought not to replace that failed experiment of bipartism with a new board of directors that is also bipartite.

We therefore recommend that representatives have the following skills and/or views: the employer perspective; the worker perspective; actuarial expertise; insurance expertise; medical or scientific expertise; and financial expertise.

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We suggest one subtle but significant change to the act in this area: that the representatives should be "from" the business or worker communities, not representatives "of" the worker or business communities. We think that one change of the one word is a significant one that would move this bill away from the chaos that was part of the Workplace Health and Safety Agency and the problems that the Workers' Compensation Board had when the two main stakeholders simply faced off at the board of directors level. We have to move beyond that. We have to go multi-stakeholder and we have to emphasize personal skills of these people who are running a very complex and difficult organization.

In terms of financial viability, there is one significant addition that Bill 15 provides to the Workers' Compensation Act and that is section 0.1, which makes the entire purpose of the bill subject to acting "in a financially responsible and accountable manner." All the purposes of the act flow within that framework. It's important, we believe, that this be given further emphasis.

There's nothing in the purpose clause itself that talks about the board of directors approaching problems, approaching issues with fiscal responsibility. That is in the bill, in section 7, I believe, where it says, "The board of directors shall act in a financially responsible and accountable manner in exercising its powers and performing its duties."

But the obligation of all parts of the workers' compensation system, ie, and most importantly, the WCB board and adjudicators at the WCB board—they don't have that same obligation, in our view, and the purpose clause could be strengthened by adding a section, that one of the purposes of the act is to have a compensation system that is financially responsible and accountable to the people who pay the freight, and that, after all, is the employers.

Before I leave financial viability, I would like to stress that we do support the responsibility and accountability that are enshrined in sections 4, 17, 18 and 19 of the bill. Those responsibilities and accountabilities are shared by employers and workers alike and they make it clear that the system does not provide a free ride to any individual.

Finally, as it relates to fraud and revenue loss, it's certain that the provisions of Bill 15 strengthen the ability of the board to pursue fraud or revenue loss in a helpful

and straightforward manner. However, in our view, the changes need to go further.

Fraud that is perpetuated upon the workers' compensation should be dealt with harshly. Fraud is a criminal act and should be pursued as such. There are provinces that deal with fraud as a criminal matter and there should be some recognition that fraud can be pursued not only by the board but by the police as well, because the fraud is on all stakeholders: It's on employers, it's on workers, it's on everybody.

In terms of the value-for-money audits, we are supportive of this introduction in Bill 15. We think this is a very overdue and necessary change.

Finally, one suggestion: that the government consider a low-cost but effective means of communicating these changes in as broad a manner as possible.

It's our view that if you communicate these changes broadly to the community—the amount of compliance with the changes, particularly the fraud changes, the changes in terms of financial accountability of employers and workers—you will have a higher compliance rate if these are understood. You have to find some method for providing that information.

In conclusion, I'd like to say a few final things about Bill 15. First of all, the chamber and the chamber movement are very supportive of the amendments contained in Bill 15. The minister, in her bill, has a great first step in repairing a system that was badly in need of repair.

Obviously, the changes proposed here cannot be viewed in isolation and must only be viewed as a first and necessary step on the road to the restoration of the system's financial viability and security. A clear and concerted effort must be made to continue this process of change. We would strongly urge this committee not to diminish the proposals in Bill 15 throughout or by the committee process. Future amendments must ensure that benefit levels are reviewed, issues of entitlement are addressed and further worker obligations are imposed. The chamber movement is confident that the changes that are introduced in Bill 15 are an important first step and a valuable first step in righting the previous wrongs.

Thank you. Those are all our submissions.

The Vice-Chair: We do thank you for your presentation and comments and we have two and a half minutes left of the 15 minutes' allocated time for questions and answers. The member from the third party can start tonight.

Mr Christopherson: Thank you for your presentation. I find it interesting that your brief traces perfectly the outline of the government. I can't see an exception here, so far.

I would point out again that in bold letters you point to a "financial crisis...a crisis of confidence," supporting the government's need to show that everything is a crisis to justify the draconian measures it's taking in a whole host of areas: a heavy emphasis on fraud, as if that's the problem too, that in large part there are massive amounts of fraud and that's the problem; again focus, implicitly at least, on the credentials and capabilities of prior board members—you talk about "a clear message...that the

system does not provide a 'free ride,'" in bold letters again; you've noted, and I'm quoting, in the past "that the unfunded liability is the product of benefit levels that are simply too high."

I would like to challenge all of those, and in particular I'd like to challenge the concept that you make; I'm surprised that you would make a statement like this as definitive as you have, "that the unfunded liability is the product of benefit levels that are simply too high." I would suggest to you with a great deal of respect that in 1985, when the cost-of-living increases were included, there was a proposal that would have allowed that to be paid for along the way. It was rejected or resisted by employers on the board at that time—some of them, enough to block the passage of a policy that would allow that to be paid for. The financial improvements package would have had the unfunded liability completely gone by 2014. There was some compromise on the part of the worker employees but they're the ones who supported that proposal. It was the employers who didn't.

I would suggest to you, and offer to let you make comment, that if indeed employers had been paying an appropriate amount throughout the history of the WCB, we would have lower costs now, and that our costs in the future would be lower yet because there would be real incentive to make sure that we provide real safe workplaces for workers, and at the end of the day business would have gotten a better deal. By being so very shortsighted—

The Vice-Chair: Excuse me, but if you have a question—

Mr Christopherson: Was it turning into a speech?

The Vice-Chair: It's a speech and the problem is that the time is now up.

Mr Christopherson: I finally got the floor after listening to all these damned presentations. Anyway, I would end there.

Interjections.

The Vice-Chair: Excuse me.

Mr Christopherson: I would end there and ask—

Interjection: Do you really want input?

Mr Christopherson: All I've been getting is input. We want a little output.

In summary I would just suggest to you, and indeed flip it around: Had employers been paying adequately along the way, they'd have been doing themselves the greatest service in the world in addition to the workers.

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Mr Raymond: Mr Christopherson, I certainly thank you for your question, although I'm frankly troubled by it and I don't know how to respond within the time that's been given.

The Vice-Chair: It's all right by me.

Mr Baird: That's the problem for us all.

Mr Raymond: Let me just say very quickly, on behalf of the chamber movement and business communities, I'm frustrated that you would indicate that you're tired of these "damned submissions." We're dealing with

a very significant problem for the economy of the province of Ontario here today.

I would hope that our submissions would be taken in that light and, regardless of what happened in 1985, we now find ourselves, in 1995, with the problems we have in this province and we have to work together to fix those problems. It has been just that type of attitude from a certain community that has prevented the opportunity to fix the system over the past few years.

Mr Christopherson: On a point of privilege—when you're finished.

Mr Raymond: Those are all my submissions.

Mr Christopherson: Good. My point of privilege is that I was making reference to the fact that in rotation we can't ask questions for a long period of time. That's why I was asking a rather long-winded question.

The Vice-Chair: Okay. I don't mean to be rude, but I do have to cease this presentation at this time, in fairness to others. I do thank you very much for your coming here tonight and presenting your position.

Mr Raymond: Thank you very much.

ONTARIO HOTEL AND MOTEL ASSOCIATION

The Vice-Chair: I would ask that the representatives from the Ontario Hotel and Motel Association come forward, please, and for the sake of Hansard and the committee members, please introduce yourself.

Mr Rod Seiling: My name is Rod Seiling. I'm president of the Ontario Hotel and Motel Association. The Ontario Hotel and Motel Association, OHMA, would like to thank the members of the committee for the opportunity to appear before you today.

We are firmly committed to working with the government to ensure Ontario has a workers' compensation system that is affordable, competitive and sustainable. We would suggest that most everyone would agree the current system fails on all three counts. This concerns us greatly, not just from a business perspective but also that with an unfunded liability of \$11.4 billion, injured workers' benefits are at risk as well.

Our association is the largest in the province representing the accommodation and hospitality industry. We have over 1,000 members located all across the province. A recent government study indicated the accommodation and the food and beverage sectors within the tourism industry represented about 105,000 direct jobs and over \$7 billion in expenditures.

The OHMA has been active for the past couple of years participating in a number of initiatives to bring about positive reform of the system. These reforms were directed to the structure of the WCB, its accountability and substantive economic changes. Bill 15, we believe, deals with the first two aforementioned issues. Meaningful economic reform, as we understand it, is to be dealt with by the minister for the WCB, the Honourable Cam Jackson.

We applaud the government for taking quick, positive action. Everyone agrees the system is in crisis. We simply cannot afford more time delays for more studies before acting. Continued inaction will only exacerbate the

problems and make it more difficult to put in effect a meaningful and realistic solution.

The OHMA, therefore, supports the two-stage process the government is undertaking: structural reform followed by substantive economic reform.

With respect to governance, the OHMA supports the change to a multi-stakeholder board of directors responsible for the long-term viability of the WCB. A bipartite governance structure did not work. It was confrontational and paralysed meaningful decision-making. This only served to make the problem of the unfunded liability insoluble.

Justice Roach, in his 1950 royal commission report on the WCB, stated and I quote:

"This act should be considered for what it is and was originally intended to be, namely, a scheme by which compensation is provided in respect of injuries to workers in industry. It is not a system for dispensing charity. It is not unemployment insurance. It is not social legislation for the purpose of elevating the standard of one group in society at the expense of another."

He went on to say: "I will have occasion to point out later that certain amendments which have been introduced into the act since it was originally passed are really in the nature of social legislation and a departure from the original scheme and purpose of the act. The effect of those amendments has been to impose upon industry burdens which should be borne by society generally."

"If the true purposes...of the act are adhered to, justice will be done as between industry and labour. If, on the other hand, those purposes are lost sight of, or this act from time to time be regarded as a convenient place into which to put legislation which in substance is social and not compensatory, it may become very much distorted. In the result, labour will continue to be relieved from unjust burdens which it suffered too long under the common law but an injustice will be done to industry by placing on its shoulders burdens which should be borne by society generally."

It is interesting to note that in 1967 the Honourable Justice McGillivray in his royal commission report on the WCB reiterated Justice Roach's comments as still valid. The OHMA would agree with that statement as it relates to the present.

The proposed changes, therefore, are that important first step in moving the WCB away from that of a social welfare system and back to an insurance system for injuries experienced by workers at the workplace. That was the intent of the 1915 agreement whereby injured workers gave up their right to sue an employer in exchange for a system of compensation.

For this to happen, the WCB must be operated as an insurance system based on sound business principles. This means the board of directors must become responsible for the long-term economic health of the system.

Reducing the size of the board to nine members and having its composition selected from a multi-stakeholder base will benefit the system, as decisions will be based on sound business principles. It will also ensure the acquisition of the required professional resources to

provide the board with the information it will need to make the hard choices it will be forced to make.

The revised memorandum of understanding, which includes a clear policy direction role for the government, will ensure the system becomes accountable to its superior, the government. We believe that type of accountability must be there to ensure that policy, as defined by the government of the day, is carried out.

The OHMA supports the changes to the purpose clauses. Specifically, I refer to the opening phrase, "The purpose of this act is to accomplish the following in a financially responsible and accountable manner."

We also support the inclusion of the following two objectives: to prevent or reduce the occurrence of injuries and occupational diseases at work, and to promote health and safety in the workplace. The WCB, we believe, can and should play a leading role in the ongoing effort to ensure we have proactive and effective workplace health and safety programs. The WCB, therefore, is the logical place for the responsibility for the workplace health and safety program.

The OHMA has put forth this position to the workplace health and safety task force. We believe an integrated approach with sector-specific programs and delivery organizations answerable to the respective industry will ensure a safe and healthier workplace. A better-educated workforce will lead to reduced levels of claims and less stress on the system. Lower costs translate directly into a more competitive industry.

We also support the Workers' Compensation Appeals Tribunal, WCAT, being included within the purview of the new purpose clause. This body must have applied to it the same levels of governance and accountability as the WCB.

The move to eliminate fraud by implementing preventive measures and identifying areas of potential fraud is to be commended. Perception is reality, and if the WCB is to regain the support it needs to renew itself, it must eliminate the perception that the system is full of abuse and is unaccountable.

Substantive economic reform must follow in the near short term if the system is to be saved from its current crisis. This means Minister Jackson's reform package must be ready early in the coming year. Specifically, this reform package needs to include the 5% reduction in assessment rates as promised; the introduction of a three-day waiting period; the definition of an injury; the alignment of benefit levels to neighbouring and competing jurisdictions; the strict adherence to the Friedland formula, no exceptions; experience rating must be retained—it has been a positive force in reducing claims; modifications need to be made to benefit levels of old claims to reduce pressure on the system; and a re-examination of the \$200 per month for life supplements, and then payable only to age 65 where the loss was caused by a work-related injury.

We suggest claims performance should drive the price of the system. Improved new claims performance must result in reduced WCB assessment rates. Additionally, the costs of old claims need to be reduced and the WCB overhead costs must be controlled.

In conclusion, the OHMA supports the measures introduced by the government in Bill 15. We view it as an important first step in getting at the root problems inherent in the system. However, it must be quickly followed by the more substantive economic reforms. Only then can the crisis which has gripped the WCB for too long be ended. The WCB is too important a component of Ontario's socioeconomic fabric not to give it the chance that Bill 15 is finally providing.

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The Vice-Chair: We thank you for your presentation as well. We do have seven minutes left for some question-and-answer time. The government side has the first question.

Mr Carroll: A quick question. Mr Seiling, thanks very much for your presentation. Several of the labour groups that have come before us have told us that the \$11.4-billion unfunded liability was not a debt, was nothing to be concerned about, it was almost like a game with mirrors. How do you feel about that \$11.4-billion unfunded liability?

Mr Seiling: I guess they've gone to a different accounting school than I went to. I believe it is a debt, and we're concerned about the ability of the system to pay the money that is owed, because it's a debt to the injured workers. Our concern is that without addressing it positively, their benefits are in doubt down the road. So certainly in our view it is a debt and it's a debt owing to those workers themselves.

Mr Duncan: Have you been invited to consult with the minister responsible for the WCB, Mr Jackson, with respect to the second part of his reforms?

Mr Seiling: We've had preliminary discussions with him and expect to be involved in the consultation process, yes.

Mr Duncan: So you have had preliminary discussions with the minister himself?

Mr Seiling: No, I didn't say I had preliminary discussions on a consultation basis. I said that we expect to be part of that process and that we've expressed an interest in being part of that process.

Mr Duncan: As of yet, have you been invited to be part of that process?

Mr Seiling: No, we have not received a formal invitation.

Mr Duncan: Just one other question with respect to the fraud offences, the new part V of the act. One of the issues that's been raised by a couple of business groups is the notion of red tape and the bureaucracy surrounding the board. Does your organization have any concerns with the type of bureaucracy that might be imposed on your members as a result of the 10-day filing requirements and some of the other I think rather onerous clauses in the bill with respect to the potential for further red tape and WCB bureaucracy?

Mr Seiling: It's our view that if we're going to bring accountability to the system, we can't just expect one side to be accountable; we have to have both sides. Therefore, if the system is to be fair, it's got to appear to be fair to both sides. So yes, while it may put some of my members

in a position where they have to do some things within a certain time frame, I don't think that we can expect that to be perceived as not being fair if we're expecting certain things on the other side as well.

Mr Duncan: So then your members aren't concerned about the paperwork—

Mr Seiling: I didn't say we're not concerned, but I think it's one of perception, an issue of fairness. If you're in business and you've got rules and regulations to adhere to and if this leads to a system which fixes the problems, then I think we can live with it.

Mr Christopherson: I think you had a chance to hear my earlier speech-slash-question, so I won't repeat it. In fact, what I'd like to do is to take the opportunity of the time that's available to ask you, if you can recall most of it, to give me your thoughts on it, the premise being that rather than trying to blame the victims, which is the way we see all of this, that if indeed the employers had been paying the amount necessary to pay the injured workers what they were entitled to, we wouldn't have this fiscal problem and in fact we'd be in a stronger position now and in the future.

Mr Seiling: With respect, I couldn't agree with your premise for a number of reasons. One, the employers some time ago agreed to increased rates which would eliminate the unfunded liability. In fact, it hasn't done that; it's grown. This is also an issue of competitiveness, and if we're to regain jobs and have Ontario and our businesses compete—because we do compete; we don't compete with one another as much as we compete with businesses in other provinces and in other countries. We have to have a cost structure that reflects that ability.

For example, you referenced earlier the financial improvement package. That was a great package. Business was to pay again. That's what it was. One of the things was to get rid of NEER, and NEER has demonstrated that it is the carrot that helps to reduce the incidence of workplace injury and also helps to get injured workers back to work faster. We don't view that as being beneficial to the system.

Mr Christopherson: I hear your points. I don't agree with them, but I hear them clearly. If I can, you made the comment, "Business has to pay again." In fairness, in 1915, wasn't that the agreement? The agreement was, workers would give up the right to sue under any conditions, regardless of how much they may have had a case. They gave all that up, but the employer, on the other hand, and the province agreed to pay enough premiums to cover the costs of replacing wages and benefits for workers injured on the job. Isn't somewhat contradictory to the original intent of the WCB to say, "Business has to pay again"?

Mr Seiling: I would suggest to you that business has, and I would also suggest to you that the agreement back in 1915, if you go back to Justice Roach's comments, the system was to be an insurance-based system, not a social system. Governments over the years have added more and more to it to increase the cost of the system to business.

What we're asking for is to return the system to its original intent. If you were in the normal business world

and you were the management and the board of directors in charge of the WCB, you would have been fired a long time ago. You wouldn't still be there. I would suggest to you very strongly that the System hasn't been run as an insurance-based system. What we're asking to do is take it back to its original intent, as you suggested it was supposed to be. That's what we're saying: Let's put it back on sound business principles and operate it as an insurance system, as it was originally intended to be.

Mr Christopherson: I would see the irony in that position being the fact that for 40 years, Tories made the appointments to the WCB.

The Vice-Chair: Excuse me, Mr Christopherson. We're out of time again and you've had a supplementary to your original question.

Thank you very much for coming before us.

AUTOMOTIVE PARTS MANUFACTURERS' ASSOCIATION

The Vice-Chair: I would ask representatives from the Automotive Parts Manufacturers' Association to come forward. Welcome. Introduce yourselves to the committee members and for Hansard purposes.

Mr Ken MacDonald: My name is Ken MacDonald and I represent the APMA. Briefly, the Automotive Parts Manufacturers' Association represents 400 companies that supply to GM, Ford, Chrysler and the other major assemblers in the auto industry. The membership employs collectively over 81,500 workers and will have produced goods worth about \$23 billion in 1995.

The APMA strongly supports the goals of Bill 15. My purpose for being here this evening mainly is to propose some incremental changes to the wording of certain provisions.

I've arranged to have circulated to you the letter of today's date. I propose first to add to section 21.1—which is on page 2 of the bill, if you have that before you—a third subsection that would provide for a setoff. It would provide that the board may set off an overpayment against any payment the board is required to make to a person to whom that overpayment has been made.

It's an additional option to the board to ensure that if an overpayment is made, it can reduce a subsequent payment by a certain amount to offset the loss from the overpayment. It's an extra option. I don't see any downside to it at all. Nothing in that provision would require the board to take an onerous position to require a worker to go without money for weeks and weeks because of early overpayment. The board can do it incrementally, but it is that option. I'd suggest that it be added. It's something that I saw in the BC Workers' Compensation Act, to give that due credit.

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I also suggest that section 22.1, which is on the same page of the bill, be amended by adding a requirement that notice to the board be in writing. I think the merits of that pretty much speak for themselves. If you're going to require someone to report material change in circumstances, the board would find it much more helpful to have that notice in writing. Of course, if the offence provision is to have teeth, then you want the requirement

to include a written notice; otherwise, you're going to be in a situation with one person saying, "Well, I phoned the board," and the other person saying, "Well, no, I didn't hear about that," one person's word over another's. You want to have the assurance that if notice is given, it's done in writing.

Thirdly, section 158 on page 8 of the bill, if you wish to turn to that: It's a provision that creates an offence for obstructing or hindering an inspection. As presently worded, this section limits that offence to inspections under subsection 113(1) or to examinations or inquiries under subsection 111(1). Why limit it? I propose that a person who obstructs or hinders any examination, any inspection or any inquiry be guilty of an offence. As the bill stands now, it will omit such inquiries as those under section 25, for example.

Section 161 is the next provision. I'm going through the bill, not in order of importance, but rather in the order they appear in the bill. Subsection 161(6), on page 9, very helpfully creates an opportunity for the board to file a certified copy with the court for enforcement purposes. Very useful. Again, I ask that it not be limited to orders under subsection 161(5), but extended to any order that the board may be making that involves the collection of money. Note that given that money paid for fines is payable to the board, it seems appropriate that the board be empowered to take the initiative on the collection of fines or on any collection of moneys and to have the benefit, the convenience of court enforcement.

Also, in subsection 161(8) the provision states that if two years pass from the date of the most recent act or omission that would be the basis for an offence, the prosecution shall not be commenced. I would suggest that freedom from prosecution is a bit too generous. I would propose that it be changed to six years, to be in conformance with the Limitations Act, which would give a person in a civil dispute six years; that is to say, only after six years would the issue no longer be legally commenceable in any court.

Finally, section 163 on page 9, the maximum fine there that is indicated for an individual, \$25,000: I see a concern there in that potentially a wrong done to the board could involve a very considerable amount of money, particularly in the case of a long-term disability benefit. We are talking about a maximum penalty here. I suggest that the maximum be raised. It does not mean that the average penalty being imposed is going to be raised, but it gives the court or it gives whatever adjudicator that much flexibility for the occasional circumstance where you have a very egregious or very exceptional wrong being perpetrated against the board and there were exceptionally large amounts of money at stake.

Those are all my submissions on Bill 15.

The Vice-Chair: Thank you very much. We have lots of time now for questions and answers. I would like to start with the opposition party.

Mrs Sandra Pupatello (Windsor-Sandwich): You have 81,000 members in your organization?

Mr MacDonald: That would not be correct. We have 400 companies employing about 81,000.

Mrs Pupatello: What is the largest company that is your member?

Mr MacDonald: Magna International.

Mrs Pupatello: And then what are other examples?

Mr MacDonald: Other large ones would be SKD, Johnson Controls, Lear Seating, the Woodbridge Group.

Mrs Pupatello: Okay. So it's safe to say that your comments represent all of those groups, so they would have likely been consulted in your presentation today?

Mr MacDonald: We certainly had consultation with members drawn from the large and the small within our organization. We know that as a trade association we would be creating problems for ourselves if we did not consult with the small employers as well as the large.

Mrs Pupatello: But your paper today represents those views of those members you mentioned?

Mr MacDonald: It represents a synopsis of discussions we had.

Mrs Pupatello: Okay. What is your opinion of the liability issue with the WCB? Do you feel that the unfunded liability is truly a liability?

Mr MacDonald: I could not be more articulate than my friend Mr Seiling a few moments ago, but if I were to answer the question, my own individual view on this is that the size of the unfunded liability is not even pertinent to Bill 15 and the issues that are, I think, before us tonight. Even if there were only an insignificant unfunded liability, the provisions that are set out in Bill 15, together my suggested changes, would still make good sense.

Mrs Pupatello: That's the opinion of the organization you're representing as well?

Mr MacDonald: Correct. I'm here on their behalf.

Mr Christopherson: Are most of the companies in your association unionized or non-unionized?

Mr MacDonald: About half are unionized.

Mr Christopherson: Most of those unionized would be auto workers?

Mr MacDonald: They're the largest union, yes.

Mr Christopherson: I ask because I do want to press on with matters that are in Bill 15 regarding the bipartite board, which arguably is the most important thing in Bill 15. I would argue it's merely meant to allow the government to load up their people on the board to carry out the decimation of benefits to workers in the spring, but that remains to be seen.

I want to ask about bipartism and how you feel about it, given that the auto workers' union in the parts sector has, at the admission of employers, been working closely with employers to the benefit of the company. Productivity is up and profits are up, and would it not make sense that carrying over that kind of cooperation into the WCB is a good way to go when the vested interests at stake are both employer and workers?

Mr MacDonald: What I see in Bill 15 is a continuance of a multi-stakeholder model that, while it's not polarized, if earlier models were, it does represent workers, as it does employers, as it hopefully will

represent other interested groups as well. I don't see anything in the bill that would indicate any loss of representation for workers, frankly.

Mr Christopherson: But on the contrary, they lose the 50% representation they now have.

Mr MacDonald: They will be represented together with others.

Mr Christopherson: But it won't be 50%. I would point out that given that the two stakeholders—and it was admitted by one of the employer groups that was here—the two major stakeholders are employers and employees, if they have to make some difficult decisions, whatever they might be, if the worker representatives on there feel that they have to be there to protect the turf as much as they can, but aren't really partners the way they were under the existing legislation, you're not going to get the kind of cooperation that would benefit the WCB, and therefore business in the long run, the most. Wouldn't you agree?

Mr MacDonald: I see there being a role for a lot more than just the workers and the employers, and both of those are represented. If there's going to be a severely lopsided appointment process—that would be speculation.

Mr Maves: The Ontario Chamber of Commerce, which was a few presenters before you, said that WCB reform was the second most important issue to employers of the chamber of commerce.

In my riding of Niagara Falls, in 1993, there was a survey done of 110 manufacturing companies which at the time were left in Niagara Falls. They listed what they thought were the most severe disadvantages to doing business in Ontario and Workers' Compensation Board premiums and the Workers' Compensation Board system was the third-biggest disadvantage.

With that in mind, I'll put this as a two-parter so as not to lose my supplemental: (a) Would you say that this is true of the folks you represent in your umbrella organization? and (b) We heard I think it was a CUPE organizer say that in order to get rid of the unfunded liability we should look at increasing premiums on employers in Ontario up to three times. What effect would that have on people in your business, as far as staying in Ontario and investing in Ontario?

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Mr MacDonald: Answering (a) first, let me say by introduction that the industry that I'm representing is one that is peculiarly closely tied to American industry in that all of our members have as their biggest customers by far American-based companies—GM, Ford, Chrysler; some production to transplants, we call them—Toyota, Honda—but by far to American customers. These American customers, as you can imagine, scrutinize more closely than probably anyone else cost advantages vis-à-vis one jurisdiction over another.

As things stand now, there is a small cost advantage in terms of labour costs to building auto parts in Ontario vis-à-vis any American state. Although adjusted for exchange rates, if you take the wages of Canadian workers, they may be marginally higher than American, the health care costs of American factories are signifi-

cantly greater, such that at the end of the day labour costs are lower in Canada. So health care costs are not a major concern in the sense of their being too high in Canada, that we're losing workers on account of that. If we see a rise in premiums, then of course we'd lose that advantage. We wouldn't say now that health care costs are way higher than—

Mr Maves: WCB premium costs are—

Mr MacDonald: WCB premiums would only be a portion, of course, of overall health care costs. You can imagine that OHIP and its equivalent in the United States comes into the formula as well.

Mr Maves: So (a) was, is this a major concern, increased costs to your group, and (b) what kind of effect would it—

Mr MacDonald: So (b) would be, what would be the effect of a major increase in premiums? It would be to probably erase the cost advantage that Canadian producers enjoy. I'd say that the advantage was in the area of health costs.

The Vice-Chair: You've now closed out the 15 minutes of your presentation and question and answer time. I do thank you on behalf of the committee.

GREATER PETERBOROUGH
CHAMBER OF COMMERCE

The Vice-Chair: I'd ask the representative from the Greater Peterborough Chamber of Commerce to come forward and introduce yourself, please, to the committee and for Hansard purposes.

Mr Don Frise: My name is Don Frise. I'm the general manager of the Greater Peterborough Chamber of Commerce. Maybe I could just start by telling you a little bit about who we are. We've been in business for over 106 years continuously. We have about 1,000 members, employing about 20,000 employees locally, and we are part of the Ontario Chamber of Commerce. We're the people who are working in the trenches with our members. Our members tend to be small business; a lot of them tend to be in the service sector.

Peterborough, as I learned back when I was going to high school here in Toronto, used to be regarded as a bellwether community and today I think it still is a bellwether community in a lot of regards. We've been rediscovered along those lines in that we have a typical cross-section of industry. In fact, I understand in the last 11 elections federally we've only voted against the government once. So we're being rediscovered as a place to come and look for opinion. My job is to try and keep in touch with our members and find out where they stand.

The Ontario Chamber of Commerce told you, when it made its submission, that the WCB was a very important issue to its members. I can tell you that, just as they've said, when we have polled our members over the last number of years—and we've had a lot of occasion to do that—it's come up as one of the highest on the list. In fact, when we take government debt and deficit and government-imposed red tape out of the process, WCB comes up very high. That's maybe even more significant when you think that about probably 60% of our members are actually now in the service business and a lot of them

don't even have to participate in the WCB program. So you can understand how significant they think it is.

I'm not going to particularly talk about Bill 15 this evening. I think our members from the Ontario chamber have already talked about that. I've given you a submission that we presented to the royal commission earlier this spring, and I'll be covering some of the points that are in there, but in a slightly different fashion.

What I'd like to talk a bit more about in a more macro way is what our concerns are regarding workers' compensation. I'm hoping that as you're designing the legislation to control this very important program in the province, you'll be keeping some of those thoughts in mind, because obviously we have to know what we want to accomplish before we can start accomplishing it.

The very first thing is how very concerned we are about the program itself. Over the last few years, our members and their employers and employees have stated time after time that the system just doesn't work. Employers, with considerable justification, feel they're paying too much for a system that doesn't seem to be able to differentiate between legitimate claims and those that are questionable. It seems to take forever to make even simple decisions. Employees complain of monumental red tape and bureaucracy and problems with receiving benefits. We've heard that time after time in the different opportunities we've had to make submissions over the last few years.

As to the unfunded liability that people have been asking about this evening, most definitely our members think it's a debt. To tell you the truth, if I were one of the persons on workers' compensation, and say that was a pension rather than my workers' compensation, I'd try to be making alternative arrangements for my long-term support. If the money is not there and there's a debt in its place, I would be really concerned about where the system is going, if I were an employee as well as an employer.

Of course the cost, the burden to business, that we currently have is also of concern. We've said time after time, as business organizations, that payroll taxes are job killers. I was talking to somebody today and I don't think they really understood what we were talking about when we said they're job killers, because they said: "You know, we're only talking a few cents, a couple of dollars. What difference is that going to make? If we roll back UI, if we roll back workers' compensation, how is that going to make a difference?"

I said to them, "Let me tell you an old story," and this really is an old story, so bear with me. There are two hunters out in the woods. A bear comes upon them and they throw everything off and prepare to run like heck. The one guy starts to put on his running shoes, and the other fellow says: "Why are you putting on your running shoes? You can't outrun that bear." He says: "I don't have to outrun the bear. I just have to outrun you."

Basically, where we're at today in business is that we've got the runners on, we've thrown everything off and we're going like hell. But our competition is all around us. Our competition is on my computer screen on the Internet. I can now buy stuff in the UK or in the

United States or in New Zealand or Australia as easily as I can walk across the street and buy my product over there. We are in a heck of a race. We need all the help we can get.

What we're talking about is not a couple of cents or a dollar. What we're talking about is that if business is successful, not only do they get to employ more people but they get to keep the people they already have and those employees get to keep their jobs. We aren't talking about a difference of a couple of cents; we're talking about the difference between success and failure, which has a tremendous multiplying effect. When I was talking to the person about that, I think they finally started to understand what we were talking about.

Another thing that's been coming out loud and clear in some of the meetings we've been having locally is that another thing's happening due to the increase in payroll taxes. We've heard about the GST and the PST, and I understand 50 new auditors are going to be hired as part of the recent financial statement. But we have all kinds of people working as part of the underground economy now, some of them semi-legitimate and some of them not. Most of them tend not to be members of the chamber of commerce, and we don't have a lot of direct communication with them. But I guess I'm a little concerned that some of those auditors are going to be knocking on the doors of our members because they're a lot easier to find than the guys who are out working for cash.

Those guys aren't paying workers' compensation and they're aren't paying anything else, but you aren't going to find them through the process of additional auditors because they are out there for the reason that they find it easier to do it that way than to work in a legitimate fashion. But if they get injured—to tie it back into what we're talking about this evening—they become part of the social problem we have in the province.

Those are a couple of things we're really concerned about as business people.

One of the other things that really got us going when we were talking back in the spring was that the government at that time was talking about extending the program. If I could go back to the submission we made at that time, we said then:

"At a time when most people agree that the system doesn't work, we understand the government is considering extending the system to make it mandatory for all in the province to be covered. As Einstein said, 'We can't solve the problems with the same thinking that we used to create the problems.' Taking a system that doesn't work and forcing all businesses to participate will do nothing but exacerbate the problem."

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"We assume that when workers' compensation was first introduced in 1914 there were few, if any, alternative methods of protecting workers. We believe that today there are alternatives that are not only equivalent to but in fact are superior to the protection offered under WCB. As an example, we now have approximately 7,000 businesses in Canada that are protected under the chambers of commerce group insurance program. The chambers' own staff are protected 24 hours a day, seven days a week, and at a cost that's considerably less than would

be available through WCB. If we were forced to add workers' compensation in our office, we would not be able to afford the superior level of coverage currently offered to our employers. Clearly, this would not be in the interests of the employees or the employer."

In fact we went on to say, "We really believe that the only way to bring about meaningful change in an organization such as the Workers' Compensation Board is to provide true competition for the organization. This is the only way that the organization will be forced to become more efficient and more effective. One only has to look at what's happened with long distance rates and the service provided to telephone users since competition was increased in that industry to understand what effect increased competition would have on the Workers' Compensation Board system."

"Not only do we believe that it would be absolutely ludicrous to extend the workers' compensation system to a system of full mandatory coverage, but we believe it's absolutely essential that the government of Ontario take immediate action to allow private insurance to compete with WCB and to allow employers to opt out of the workers' compensation program"—and the following is underlined—"providing that the employers are able to provide comparable coverage from another source." We believe this coverage is required, it's necessary, it's a program we have to have, but let's do it in the most cost-effective way. "We believe that this is the only way we will ever get the organization back on track."

That's what we had to say at that time.

Some of the principles we believe you should be looking at, and I hope and I think you are:

Obviously, it has to be effective and well-organized; the needs of the users have to be handled in a prompt and a responsive way. We believe there also should be a responsiveness to both local and provincial needs.

We suggested in the brief we made back at that time that you might take a look at the way the unemployment insurance system is set up, with its tribunal process and the appeals boards made up of employees, employers and a chair. For those of you who may not be aware, any appeals going through the system right now in our particular locale are handled in less than 30 days, not the four years or more that I understand it can take to get to WCAT. There's been a lot of criticism of the unemployment insurance system, but there might be some things you could take a look at and learn from in the way they're operating. They aren't doing nearly as bad a job as some people think they are.

We believe there has to be an incentive built in for workers to return to work. We're making changes to UI now, we're making other changes. There has to be incentive built in to have them return to work, so when you're setting the compensation rates, obviously that has to be taken into account.

One other thing our members thought was really important was that there should be freedom of information regarding medical information on WCB claims. We believe that all pertinent information related to the claim should be made available to both the employer and the

employee, even if this would require patient-doctor privilege being waived by statute.

We believe there also has to be a flexible approach in the application of the program. We understand that in some cases there are still considerable problems with the coding of businesses and that in some cases—we give an example of a person working for a construction business but working in the office being misclassified. There has to be some flexibility and of course it has to be done in a cost-effective way.

The last thing I would say is that if we're going to try to enforce it, it's got to be enforceable. Therefore, with things like stress-related claims, I think you should be very cautious. If you have anything to do with the final legislation that's going to affect that—I understand the Ontario Medical Association has refused to adjudicate in claims of stress, and if they aren't going to adjudicate, God knows how we're going to differentiate between the valid claims and the non-valid claims.

I think those are the things our members would have wanted me to say to you this evening.

Mr Christopherson: I'll try to ask a brief question, if that's possible for me, but first a quick statement.

Your story at the beginning was interesting. As I heard you say it, I thought that if the bear represented new legislation, when the person putting on the running shoes turns and says, "I just have to beat you," the "you" is the workers in this case, because they're the ones who are going to get eaten by the bear of this legislation.

Mr Frise: The bear is the international marketplace and other businesses.

Mr Christopherson: I would disagree with that, but I'm not going off on that one.

I want to ask a very short question. In terms of the privatization of the WCB, which you advocated in your March 1995 document, you said employers should be allowed to opt out. I'm curious. How would those who choose to opt out be held to account for that part of the ongoing public WCB that is legitimately part of their responsibility?

Mr Frise: They wouldn't be.

Mr Christopherson: So who pays the bill?

Mr Frise: The taxpayers. They're also taxpayers.

Mr Christopherson: Why? Why are the taxpayers paying the bill when this is an agreement between employers and workers?

Mr Frise: There is also a component in there that we believe, and I think most people believe, is a social component. Although, as I heard you explain before, the original process was between just employers and employees, obviously there are people on workers' compensation today for whom it's not strictly a work-related situation.

Mr Christopherson: I'd love to go on, believe me, but I did promise my colleagues that I'd give them a shot.

Mr Tascona: We've heard today that registration is a problem. You sort of commented on that in terms of the underground economy. The approach we're taking is

requiring an employer to register within 10 days of becoming such. Do you agree with that approach? That's the first part. Second, what do you think about a revenue amnesty with respect to this registration problem?

Mr Frise: Could you explain what you mean by "revenue amnesty"?

Mr Tascona: For employers that are out there who—

Mr Frise: When I'm talking about underground economy, I'm talking about businesses that aren't reporting much of anything. They might be on unemployment insurance at the same time that they're out working. They aren't reporting anything. I don't think an amnesty would really have much effect on that kind of economy.

We're talking about people who are doing recreation rooms and dens and things like that. They're getting the person to buy the materials themselves, they're supplying the labour and they're working for cash. You just don't see them at all. They're totally invisible for most intents and purposes.

Mr Tascona: What's the solution to get them to register?

Mr Frise: We wrote a document a few years ago in response to Searching for Fairness, the taxation brief written at that time. We called ours, interestingly enough, Searching for Common Sense. We were saying at that time that the only way to really turn things around is that we have to strike an environment where it makes sense to have all businesses working within it in a legitimate fashion, and that meant we had to have a fair tax structure, one that made sense and one that was cost-effective. That would be my response to you.

Mrs Papatello: Much of the position you take is similar to that of the Ontario chamber. Much of it is, in principle and philosophy, what our party campaigned on: streamlining, improving the system etc.

I was surprised to see that you compared it to your chamber of commerce group insurance program for the chamber staff. Most that I've ever seen are service-oriented work in an office setting, and it's very difficult to compare that kind of employee group to Ford, GM, Chrysler, Magna, Lear, all the companies under the gentleman who was here first. I don't know that that's a fair comparison, with respect. Why did you include that?

Mr Frise: Because most of the net new jobs are being created in the small business sector; that's where it's happening. Again, we're typical of what's happening in Ontario and Canada. We used to be a very large manufacturing centre in the 1950s; over 50% of people living there were directly in manufacturing-related jobs. Now the predominant part of the sector we have is the service sector. That's where the people are going, that's where the businesses are being created.

Mrs Papatello: Would you probably agree, then, with the gentleman who was just here from APMA, the automotive parts, who said that at the end of the day the cost of labour is lower in Ontario than in any other state? That was Ken MacDonald, who was just here.

Mr Frise: It probably is, as long as we have a 74-cent dollar.

The Vice-Chair: Thank you for attending tonight and presenting your position to us.

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L.A. LIVERSIDGE AND ASSOCIATES LTD

The Vice-Chair: May I please have the representatives from L.A. Liversidge and Associates. I would ask you to introduce yourselves, please, to the committee and for the purposes of Hansard.

Mr Les Liversidge: My name is Les Liversidge. I'm president of L.A. Liversidge and Associates Ltd. With me is Mr Michael Mitchell, who is vice-president of consulting services with my firm, and Mr George Nolis, who is manager of appeals with the firm.

We're a management consulting firm of 24 employees specializing in workers' compensation issues and provincially service a client base of approximately 500 corporations and organizations from all sectors of the economy. I presently serve as an executive member and consultant to the Employers' Council on Workers' Compensation, which I understand appeared earlier on today, which is a coalition of employer trade associations. I'm also a member of the Workers' Compensation Appeals Tribunal advisory group.

Workers' compensation reform has been active and continuous in the province of Ontario for at least the last two decades. While the system still manages to provoke very sincere and oft-times very valid criticisms and while these criticisms appear to conserve some certain essential elements over time, the program of 1995 in my view bears very little resemblance, from a delivery and benefit perspective, to the program of, say, 1975, just 20 years ago.

If you're following along, I'm going to be editing as I go through this so that there perhaps is some time for questions. I'll be skipping ahead a little bit.

Since the early 1970s, the Ontario workers' compensation system has undergone a continual and almost complete overhaul. I am convinced that if the system of 1995 were somehow transported back in time to 1980, it would far exceed the expectations then of even the most ardent worker reformer on most fronts. Yet after two massive legislative adjustments—Bill 101 in 1984, which put in place a representative board of directors, the Workers' Compensation Appeals Tribunal, the offices of the employer and worker adviser and the Occupational Disease Standards Panel, and Bill 162, which completely overhauled the benefit delivery structure, eliminating systemic over- and undercompensation, along with a very aggressive reorganization of the WCB itself—old criticisms persist and new ones still emerge.

Many observers may conclude, and not without some cause, that the attempts at reforms have failed, that they did not address the root problems of the system. If the test for success is the silencing of the critic, then I agree they have failed. But if the test is the refinement of the system to make it a little fairer, more responsive, those reforms did achieve a large element of success. While the system remains imperfect, the claimant of 1995 is infinitely better served than the claimant of not even a generation ago.

While the system has been responding administratively and legislatively as a direct result of those changes, the effective constituencies have become far more aware,

more educated, more involved and likely less patient. The workers' compensation community, if indeed that designation is appropriate, of 1995 is far more cognizant, knowledgeable, sophisticated and demanding than the community of 1985, and certainly that of 1975.

Paradoxically, the very reforms that were demanded and which were delivered have launched increased and enhanced demands over time. The advent of the Workers' Compensation Appeals Tribunal, a particularly significant and far-reaching institution which has set in motion a dynamic process of law reform that not only ensured individual cases would receive a higher standard of justice but significant and contentious issues would be openly debated, along with the creation of a representative board of directors in 1985, with employer and worker participation, with an accessible and committed membership, assured a link to the community while guaranteeing some direct involvement in policy design.

It is more than simply a fascinating fact to realize that over the last decade not only have all three political parties introduced workers' compensation reform legislation—the Tories in 1984 with Bill 101, the Liberals with Bill 162 in 1989 and the NDP in 1994 with Bill 165—WCB reform in each case was almost their last act as a government. While the Tories introduced Bill 101, the Liberals were critics; they had to implement it. The Liberals introduced Bill 162, a very significant reform package which completely revamped the benefit delivery model, and the NDP, who actively campaigned against those reforms, were required to implement them. Bill 165, one of the last acts of the NDP, received aggressive criticism and many elements will not survive and, in my view, some rightly so.

The backdrop of political realities then is not without some very significant implications to the current state of workers' compensation and may begin to explain what I believe is one of the most compelling causes behind the state of today's system.

I am convinced, having participated in one way or another, in all three major legislative reforms from 1984, that today's problems are less a function of design than they are of execution. The lack of political accountability has had profound impacts on the system.

By the end of the last decade, after a massive amount of workers' compensation reform had taken place, speaking at the 75th anniversary symposium in September 1989, the then president of the board said this in response to the massive changes implemented, "The underlying agenda will shift from an agenda of change to one of stabilization and renewal."

In a publication released near the end of the last decade, *Workers' Compensation in Ontario: A System in Transition*, this was said: "On the legislative front, the program of major reform commenced last decade has now been largely accomplished with the enactment of Bill 162. However, it is very likely that housekeeping amendments will be in order."

This period of stabilization and renewal never did occur. The architects of those very changes found themselves displaced with the change in government in 1990. Rather than continue with the aggressive administrative

reform agenda and ensure a period of stability and renewal, beginning in 1991 the senior executive group at the WCB was purged.

The implementation of Bill 162, which completely revamped the benefit delivery model introducing future economic loss and non-economic loss, was never allowed to mature. Shockingly, Bill 162 never underwent that required and expected refinement. Instead, the administration of the day renewed investigative efforts at corporate design and retraced the ground, step by step, that had been exhaustively covered since the late 1980s, and I'm alarmed that five critical years have been effectively wasted.

Never before, though, to my recollection, has a government not only set out a workers' compensation reform agenda prior to an election, but actually actively campaigned on the issue, providing a strong and aggressive platform. The present government, in my view, is to be congratulated not only for the substance of the platform that it presented but for the swiftness of movement on needed and immediate reform.

By presenting change at the beginning of the mandate, the political accountability so sadly lacking since 1980—and during that period of time I think all three political parties can do a mea culpa on that. The tough decisions and the follow-through will be shepherded by the very government that has spearheaded the reforms, a requirement that has been absent for over a decade and a half and three major reform packages.

Accountability of the government and of the WCB management is a theme that is clearly embraced in Bill 15. With the absence of accountability, the WCB has been afforded the luxury of ignoring the growth of a perilous financial crisis that threatens to lead to the bankruptcy of the system and put at risk the payments and pensions of those who rely on the system the most. This committee is well aware of the current financial state of the WCB and needs no comment from me.

I would like to turn, though, to three aspects of Bill 15 that do warrant comment and invite this committee to consider amendments in several areas. First, let me commend the government for moving swiftly on changing the composition of the board of directors. While the prevailing argument—I mean, you look at a system that is dealing with, to a large measure, issues concerning workers and employers.

At first blush, it does not appear unreasonable at all to have that system managed by those two core constituencies. However, even before Bill 165, when the bipartite board was officially enshrined in the act, the WCB had been operating under a bipartite scheme for several years and it simply didn't work.

The board could not even agree several years ago to pursue a funding strategy at a time when an untold crisis was beginning to unfold. The board released a discussion paper, *WCB Funding Strategy*, in February 1992 and the board was never able to get its hands around that and make one inch of progress to putting together a comprehensive plan for the future. In fact, for 1993, for 1994 and for 1995 employer assessment rates were set in the absence of any long-term funding plan.

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Bill 15 makes a small improvement to the purpose clause. I've recommended in the paper—I've commented on it a little bit to suggest that some reference be made to a requirement to consider the competitiveness of Ontario business which was something that was considered some time ago by the management caucus of the past governments, premiers, businesses and labour advisory committee.

One of the requirements of Bill 15, which I strongly support, is the requirement for the development of a strategic plan which the system has been sadly lacking. Not surprisingly, the past board was unable to agree upon a strategic plan, even though a development was attempted throughout 1992 and 1993.

The last strategic plan, in fact, goes back to 1984. Mr Christopherson asked a question with a long preamble, a few presentations ago, and I'd just like to take one very quick moment and respond to that to save him the opportunity and the need to chew up my portion of the clock on that. As I sort of sense the question—

Mr Baird: If you don't, he will.

Mr Liversidge: That's right. Maybe I'll let him do it. As I sensed the question, it was why should it be costing workers to reform the system? The bottom line is that it shouldn't. If the current state of the Ontario workers' compensation was because business was not paying enough, it was because accident rates were up, it was because business was somehow getting a free ride then, considerations of benefit reductions and assessment rate reductions would be absolutely irresponsible. But that's not the case.

You need only go back to 1984, when business went to the government and went to the WCB, when they first saw the beginning of the unfunded liability which, at that time, was peanuts. It was approaching over \$1 billion, which unfortunately is peanuts in the context of it today. They said, "Listen, we have to do something about this." At that time, they set an unprecedented plan in motion and said, "We, business, will take, we will absorb for three years running, assessment rate increases over and beyond the rate the inflation for 15% per year each year for three years followed by three more years of increases of 10% per year over and beyond the rate of inflation."

In 1987, the WCB reported in its annual report that this was having some effect. In fact, it said that if things continue, that by the time 2014 rolls around the unfunded liability should be zero. Two years later, 1989, the WCB reported in its annual report that the financial plan, agreed to by business five years earlier, was a tremendous success and that if accident rates held to 1989 levels, the unfunded liability would be paid off not in the year 2014, but rather in the year 2007. Guess what? Accident rates did better than hold at 1989 levels, accident rates in many industry sectors actually decreased by 50% from 1989 till now and, as we all know, the dream of an unfunded liability being zero in 2014 is pure fantasy at this point in time. So business tried to do something; business contributed more money.

The one area where I think some very strong amendments to Bill 15 are needed, deal with a theme of workers being required to provide notice to the board

when there's a material change in the circumstance. I think we can all understand and appreciate why that is there, and there's a reciprocal requirement on the part of business which was discussed earlier on by one of the earlier presentations. I don't think that amendment, that requirement is going to have the intended impact. Let me explain why. I've listed four examples in this paper, and I encourage you to look at them. I'll just give you but one, and it deals with future economic loss awards, a core important benefit component of the system. Right now, under that system—if you just look at case 1 on page 11, these are real cases, and if I'm able to provide the WCB with the case numbers and you want any further details from them, I'm sure you could get it that way.

This worker was granted an award June 13, 1994, in the amount of \$1,267 a month, but he returned to regular work, with no wage loss within three months after the issuance of that award. Under the current law, that worker will continue to receive full salary plus that \$1,267 a month for at least another 24 months, which is a perfectly legal windfall of \$26,620.86 tax free. That worker had net earnings of \$2,902 before his accidents and net earnings of \$4,169 post accident.

If you can get—we're not just talking about people ripping off the system and there are huge amounts of fraud and concerns like this, these are legitimate people, these are people who have done nothing wrong, these are honest individuals who are simply getting what they are legally entitled to and for them workers' comp was a windfall. That's wrong; that's wrong. It's simply a matter of correcting problems like that within the system which I think will return untold millions of dollars, and all workers will still be fairly and properly compensated.

I've listed three other examples that I think warrant some consideration that I think get the point across that there's a serious problem that ought to be reviewed. I suggested that you consider putting in place an amendment in anticipation of the upcoming Jackson review to not allow the board to lock in some of these inappropriate awards, which they will start to do, which they will be required to do beginning in January of next year.

With that I'll end my comments. I don't know if I used up all my clock or not.

The Chair: We have about one and a half minutes for questioning. I'm told the government ranks are up next in the batting order. Anyone have any questions?

Mr Baird: I guess the question I have, since you work extensively with many firms of both small and large sizes: What could you tell us about both high premiums and about the unfunded liability and its effect on the economic performances of the businesses you work with and on job creation?

Mr Liversidge: Let me deal with the second part first. In this package I've outlined some examples and I'm giving you some newsletters that we regularly send out to our clients. In one of those newsletters some months ago I said the government is proposing reducing employers' assessment rates by 5%, understanding again if that's from windfall for business, that's inappropriate, but we all know that Ontario has the second-highest average assessment rate in the country—second only to Newfoundland.

How would that impact your business, I posed? The response was tremendous and people indicated, and they've always tied in, payroll taxes and particularly workers' compensation payroll tax which, remember, is a variable tax. You see the stated premium which an employer pays every year, but that premium is altered by that company's individual performance, and our clients and most of the companies with which I come in contact would far prefer to see the premium measured more to their performance. If they cost more they ought to pay more; if they cost less they ought to get a rebate. But the starting point has to be competitive, the starting point has to be reasonable and workers' compensation tax, which is essentially a payroll tax, does cost jobs.

Mr Maves: I want to ask a supplementary of the PA.

It's my understanding, Mr Baird, that there's a public discussion paper on reform in early winter.

Mr Christopherson: What's going on?

Mr Duncan: We're requesting delegations. You're using up the time to ask delegations questions. Now, we've been very cooperative—

The Chair: I indulged your time to ask two questions of the research.

Mr Duncan: No, you didn't. That happened after the delegation's time had expired, at the end of the time. This is time to ask questions of the delegation.

Interjections.

The Chair: The clerk picked a good time to absent himself.

Mr Ted Chudleigh (Halton North): You've used up the time. We're going to go again.

The Chair: That solves that. Thank you, Mr Liversidge, and your associates. We appreciate your taking the time to come and make a presentation tonight.

Mr Liversidge: Thank you.

The Chair: Now Doug comes back.

Mr Duncan: I would suggest the clock to be restored to about 34 seconds left. I counted them, and when that started—

The Chair: It was actually 9:15.

Mr Duncan: —and get a ruling from the clerk.

The Chair: The question wouldn't affect Mr Liversidge anyway.

Mr Duncan: Yes, but it used up time.

The Chair: No, he was at the time. I was indulging a supplementary.

Mr Duncan: I counted 34 seconds.

The Chair: The question arose, is it possible to ask questions of other members around the table or do questions have to be posed to the deputation?

Interjections.

The Chair: It's a matter arising from this question: Is it appropriate for someone else to ask for clarification?

Mr Duncan: During the time when the delegation is still up and the opposition has questions of the delegation?

The Chair: We will have to chat about it further.

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HUMAN RESOURCES PROFESSIONALS ASSOCIATION OF ONTARIO

The Chair: Our last group of the evening, the Human Resources Professionals Association of Ontario. Good evening.

Mr Michael Failes: Good evening. Thank you very much. My name is Mike Failes. I'm the chair of the provincial government affairs committee. This is Mary Beth Currie, a former chair and a member of the committee as well.

We're here tonight on behalf of the Human Resources Professionals Association of Ontario, HRPPO. This is an association of approximately 6,500 members throughout Ontario who are human resource practitioners. We perhaps bring a slightly different view from a group representing employers or workers. We represent instead the people who often have to administer acts such as the Workers' Compensation Act.

We're certainly pleased to speak with you tonight. In keeping with the late hour, our submissions are very much to the point. We've reviewed the legislation and there are a number of aspects which we're very pleased to see, things that we've been looking at for quite a while. We're pleased with the financial accountability aspects of the legislation; the newer, more streamlined board of directors, which appears to be based on a multistakeholder model; we're certainly pleased to see the value-for-dollar audits and the additional enforcement mechanisms in the legislation.

One area, though, our members have been very concerned with is with respect to the material change requirement contained in section 109.1 of the legislation and the complementary enforcement mechanism that goes with that. The concern, first of all, focuses on the fact that section 109.1 talks about the obligation to advise the board of material change. Of course, it's a reciprocal obligation for both employers and workers, but it's very vague. That vagueness raises a number of concerns for our members.

First and foremost is a fairness issue for them. What is a material change? If you just put yourselves, perhaps for a moment, in the chair of someone who's trying to administer this piece of legislation for an employer, is for example an increase of 10 employees a material change in your payroll? It might be, for example, if you have 10 employees in your workforce; it might not be seen as material change in some workforces where you have perhaps 500 employees.

These are difficult issues which will have to be dealt with every day with the very short time line that's in there, that is, the 10-day time line. It'll be difficult for people to respond to it. We can see there'll be some difficulties for employees as well, workers, in terms of their understanding of what a material change is.

There's also a concern with respect to the vagueness of material change for the government. Obviously, one of the things that we like in the legislation is the ability to enforce these requirements, but it's going to be difficult to enforce when people are not going to really understand what a material change is. It's going to be difficult, frankly, we'd suggest, to get convictions as well when

you are trying to show—and I'll come back to this in a moment—that there's been a wilful failure to advise the WCB of material change.

I mentioned the 10-day time limit as being a concern as well, and that's largely related to the fact that there is a certain vagueness in the terms which are being used. The solution we see is that you should provide some sort of definition of "material change." We'd suggest it should be in a regulation so it can be fine-tuned and administered easily.

With respect to the concern which most of our members face, if the material change in the workforce was linked in some way, for example, with the Employment Standards Act requirement for notice of mass termination—just for those of you who might not be familiar with it, if you have a situation where you terminate the employment of 50 or more people in a period of any four weeks, there's an obligation to provide a notice to the minister.

Similarly, if that was defined as being a material change, where you either hire or terminate the employment of 50 or more people on a four-week period, that's the kind of material change where a human resource practitioner can say, "Okay, we have an obligation to advise the WCB of this," this is a material change and there's paperwork that's already being generated in any event in that situation.

Most importantly, though, we think there have got to be some sort of guidelines for people so they know what they're supposed to do, what they're supposed to be reacting to. Right now it's simply too vague.

This also ties in with the prosecution section. As we indicated to you, we'd suggest there are going to be some real difficulties in terms of getting convictions where the term is defined as broadly as it is, and in particular with the wording of the act right now which requires a wilful failure to advise the board of a material change. That is going to require proof of a state of mind, which is going to be difficult to show.

We'd say it's much better if (1) you define what a material change is; and (2) you make this simply a regulatory offence, that is, if you fail to advise the board of that material change, that's an offence. Then, just as there is under, for example, the Occupational Health and Safety Act, there's a defence of due diligence. If you took all the steps that are reasonable in the circumstances to ensure that the board would be advised of a material change, then that is an absolute defence to the charge.

We'd suggest that's a better approach than putting the board in the position of having to show state of mind, and secondly, putting employees and companies in the position of having to respond to something as vague as a material change. Define it; make it a regulatory offence with a defence of due diligence.

Incidentally, the definition of what a material change is will also resolve some of the concerns our members have about the 10-day time limit. If you define "material change" to be a significant enough change, then there won't be a problem in terms of responding within the 10-day time limit which is currently in the act.

Subject to any questions you have, those are the concerns that we had. It's very, very defined in terms of what our members have come to us and said they'd like to see different in this legislation.

The Chair: Thank you, Mr. Failes. The questioning will begin with the official opposition.

Mr Duncan: I want to ask you a question around the whole issue of governance and the appointment of people to the new board as defined in Bill 15. The previous delegation, in its presentation, although he omitted it in his verbal presentation, said, "Perhaps the election of 1985 had less of an impact as the incoming Liberal government appointed the former Labour minister"—that was Robert Elgie, who had been the Labour minister under the previous Davis government—"as chairman of the WCB, which...ensured a high degree of stability and accountability."

A number of employer and employee groups have suggested that it's very important to find qualified and competent people to fill the positions on the board and try to remove the partisanship that's been there in the past. Would you agree with that?

Mr Failes: Certainly you want to look for people who are qualified and competent, and often people who have formerly held positions such as legislative assistant subsequently become MPPs, and you see them years later and you recognize them from perhaps a former career. I'm just speaking in a very hypothetical way here. It's not at all directed to anybody in this room. There's certainly no question that sometimes former experience can be very valuable, but I think that's got to be weighed on a case-by-case basis. I don't necessarily mean that as an endorsement of any particular former MPP or otherwise.

Mr Duncan: I guess the question is a serious one, though, that governance is, in our view, not clearly enough defined. We support the multi-stakeholder model. We did in the run up to the election.

Mr Christopherson: And now?

Mr Duncan: And we do now, as we have all the way through. I guess the question is this: Do you feel it's necessary to be more specific with respect to the composition of the board, or are you satisfied that the amendments as contemplated in Bill 15 are sufficient to guarantee that irrespective of who the government is, there will be a fair and balanced board of directors?

Mr Failes: I share your concern that you don't want to see a change in government undermine what we think is there right now. There's obviously a firm commitment on behalf of this government to have a multi-stakeholder model. That's desirable; that's obviously going to happen. If it's not enshrined in the legislation, yes, there is some concern, but I'm not too sure you can really fine-tune this legislation sufficiently to say, "It should be this person or this type of person." I'm not sure that's really suitable in a piece of legislation.

Mr Christopherson: Interesting submission. You didn't comment on this but I'm hoping you'll have some thoughts on the proposed benefit cut, just what your thoughts are on that—the government's proposing a 5%

cut to existing WCB benefits—either your association's thoughts or your own.

2200

Mr Failles: We had to wrestle with this in our earlier submissions to the government, which I appreciate you don't have before you. We were reluctant, as an association, to comment upon that. We do believe, obviously, in the financial viability of the plan, and we appreciate that cuts may be necessary, but the kind of analysis that would be required in order to determine the amount of a cut or reduction is not something which we have done, and we're not really comfortable commenting on the exact amount. We do, though, support anything that's going to obtain fiscal viability.

Mr Christopherson: Fair enough. It wasn't meant to be a setup question anyway. I just wanted your thoughts.

Following that, because having professional human resources, I know someone who's in that field and if ever there's a group you can't label or the ones that will fool you every time, it's that group, because they have a unique perspective that doesn't lend itself to left-right if you will, in my opinion.

One of the groups made the statement—this will be a quick question—Employers' Advocacy Council stated in their report, "In many instances, it's the economic situation, not the worker's disability that is the reason for the worker not returning to work." What are your thoughts on that statement?

Mr Failles: I think there are a lot of reasons why workers often don't get returned to the workplace in a timely way. If I was going to pick the most common one, it's because intervention and reintegration at an early stage doesn't occur, not really so much the economic circumstance. I'm not sure of the entire context of the submission.

Mr Christopherson: Their thinking is that there needs to be an economic incentive, and I'm analysing now, because most workers will not return to work as quickly as they could if they didn't have that economic need pushing them.

I guess two parts to the question: One is, is that your experience? What percentage of workers do you think could be back at work sooner than they are? Secondly, for whatever proportion that is, isn't a financial incentive necessary to do it or an important part of it?

Mr Failles: I don't think there's any question that financial incentive does play a part. I don't know of any studies that have really analysed it. If you look at the experience of our members with disability plans which have waiting periods, for example, or which have an element of employee funding, invariably the experience where there's a waiting period or there are scaled-down benefits as opposed to a plan which pays 100% and has immediate payments, there's going to be less use of the plan. There's no question about that. Now, whether people are at times forcing themselves to come to work when they're not really able to, that's difficult to say, but there's no question that financial incentive is going to make people come back to work more quickly.

One thing, though, that is absolutely clear is that the sooner the worker gets back to work, the more like they are to be reintegrated successfully. So some element of pushing is desirable from the worker's own point of view. If you talk to any medical practitioner in the field, that's the first thing they'll tell you. If the person doesn't come back to work within the first five days, their chances of returning to work are greatly reduced, and the longer it goes on, it's astronomical the way the odds increase of them never coming back.

Mr Tascona: I guess as a practical matter on that material change, unless the employer advises the WCB of the material change the WCB has no way of knowing, and you suggested a guideline with respect to the material change, that the WCB would have policy guidelines with respect to what a material change is. Would you see it to be preferable to be part of the regulations or part of the statute versus to be a policy guideline?

Mr Failles: No, absolutely. We'd suggest the regulations. You're going to be faced with prosecutions on this. This isn't something for WCB guidelines; this is something for the government to legislate. If you're going to go and prosecute people, it cannot just be a WCB guideline. I'm not even sure that would be enforceable.

Mr Tascona: As to what a material change actually is.

Mr Failles: Yes.

Mr Tascona: So then we move on to what the defence should be, okay, and you suggest that the defence should be due diligence rather than wilfulness, which arguably is a lower standard.

Mr Failles: Yes, definitely a lower standard.

Mr Tascona: But you'd be satisfied with that.

Mr Failles: Yes, but when I say it's a lower standard, the due diligence defence is, but you're turning it into a regulatory offence, so a mere breach of the requirement is going to result in a conviction absent the due diligence.

Mr Tascona: We're not talking about absolute liability. Wilfulness is a little different.

Mr Failles: Yes, wilfulness is definitely different. There's a mental element to it, which I'm not sure you're going to be able to prove in very many cases. You're going to have to show that the person knew that this was a material change and intentionally failed to advise the board. That's going to be tough to show. You're better off to simply have an ascertainable standard which is contained in the regulation. If you fail to meet that standard, then you've got to show that you had the mechanisms in place, if you're the employer, for example, which should have advised the board; you did everything reasonable.

Mr Tascona: What if the standard was "knowingly" rather than wilfulness?

Mr Failles: I think it's the same standard.

The Chair: Thank you both. In the interests of being fair to the other groups that spoke, we've actually gone a minute or two over, but I appreciate your taking the time and the patience to be the last group of the evening, Ms Currie and Mr Failles.

Before the committee scrambles away, having had the opportunity to consult with the clerk, it's the Chair's decision that questions may be posed to the PA or to the minister at times either between deputations or, in case of evenings such as this, after the conclusion of all presentations. I would entertain your questions at this time.

Mr Maves: Mr Duncan continues to ask witnesses whether or not they've been asked to appear before Mr Jackson. It's my understanding that there's going to be a discussion paper on reform that's going to come out this December or early next year and the consultations on a new bill will be around that, and so, if that's true, is the first part of the question; the second part of the question would be, therefore, will the minister be asking people to come in and consult with him at that time?

Mr Baird: That's a good question. The member for Burlington South, the Honourable Cam Jackson, Minister responsible for WCB reform, is undertaking a public discussion paper detailing the need for intervention and the objectives of his reform and will outline the approaches that he'll propose. That'll be issued very shortly, early this winter. With the release of the dis-

cussion paper, he'll be meeting with the public for the basis for a focus consultation.

Like my colleague from Windsor, we were in favour of disbanding the WCB royal commission, and he has secured the intellectual property of that as well. So there will be a public discussion paper in early winter and there'll be direct consultations by the minister in the winter as well.

Mr Duncan: Will those discussions and consultations be held in public?

Mr Baird: You'd have to ask the minister directly, or I could get that for you at the next meeting.

The Chair: You undertake to get that answer?

Mr Baird: I do.

Mr Christopherson: Just a short observation: How impressed I am at the clairvoyance of the parliamentary assistant to have a written response ready for a spontaneous question from his colleague in the Tory benches.

The Chair: The committee stands adjourned till 9 am, Wednesday, December 6.

The committee adjourned at 2208.

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Grimmett, Bill (Muskoka-Georgian Bay/Muskoka-Baie Georgienne PC) for Mr Chudleigh

Martel, Shelley (Sudbury East/Sudbury-Est ND) for Ms Churley

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Session
Publication

R-4

R-4

ISSN 1180-4378

Legislative Assembly of Ontario

First Session, 36th Parliament

Assemblée législative de l'Ontario

Première session, 36^e législature

Official Report of Debates (Hansard)

Wednesday 6 December 1995

Journal des débats (Hansard)

Mercredi 6 décembre 1995

Standing committee on resources development



Workers' Compensation and
Occupational Health and Safety
Amendment Act, 1995

Comité permanent du développement des ressources

Loi de 1995 modifiant la Loi
sur les accidents du travail
et la Loi sur la santé
et la sécurité au travail

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Published by the Legislative Assembly of Ontario



Service du Journal des débats, Édifice du Parlement,
Toronto, Ontario, M7A 1A2

Téléphone, 416-325-7400 ; télécopieur, 416-325-7430

Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
RESOURCES DEVELOPMENTCOMITÉ PERMANENT DU
DÉVELOPPEMENT DES RESSOURCES

Wednesday 6 December 1995

Mercredi 6 décembre 1995

*The committee met at 0913 in committee room 2.*WORKERS' COMPENSATION
AND OCCUPATIONAL HEALTH AND SAFETY
AMENDMENT ACT, 1995LOI DE 1995 MODIFIANT LA LOI
SUR LES ACCIDENTS DU TRAVAIL
ET LA LOI SUR LA SANTÉ
ET LA SÉCURITÉ AU TRAVAIL

Consideration of Bill 15, An Act to amend the Workers' Compensation Act and the Occupational Health and Safety Act / Projet de loi 15, Loi modifiant la Loi sur les accidents du travail et la Loi sur la santé et la sécurité au travail.

The Vice-Chair (Mrs Barbara Fisher): Good morning. We reconvene once again, and once again I do apologize for not being able to start on time.

We welcome you to the hearings of the standing committee on resources development as it relates to Bill 15. We would like to advise you that, first of all for the sake of the members, there has been a little bit of an agenda adjustment this morning. The 9:45 is still vacant. It is one that hasn't been filled and so we're not crunched especially for time now, and the 10 o'clock, to the best of our knowledge, is cancelled. We did suggest that somebody else could attend and they haven't signified yet that they're going to do that, so as it stands right now that's also a vacant time.

Mr Dwight Duncan (Windsor-Walkerville): Are any of the union groups coming today?

The Vice-Chair: Well, right now the 9:45 and 10 are not. There are other union groups, as you can see on the rest of the agenda here, but they've—

Mr Duncan: You haven't been advised of any kind of boycott, though?

The Vice-Chair: No, not that we know of.

RICHMOND HILL CHAMBER OF COMMERCE

The Vice-Chair: Welcome to our hearing process. Just so you'll understand where we stand at the beginning, you will be given a 15-minute time frame in which to make your position known. That can be done in a combination of ways. It can be full presentation or you can include in that also your question and answer period. However, you will be limited to a 15-minute time frame.

Starting of questions today comes from the third party. If they're not here, it moves in rotation. They may attend before the end of your presentation and opening of the question and answer period. They would be offered the opportunity to start, and then it would go to the government side and then to the opposition party.

Without any further comments, I'd like you to introduce yourselves, please, for the sake of the committee and for Hansard's sake, and go from there.

Mr Jim Chwartacky: Good morning. First of all, my name is Jim Chwartacky. I'm the president of the Richmond Hill Chamber of Commerce. With me are Jason Mandlowitz, who is national manager of workers' compensation services for Crawford and Co. Jason's on my left, and on my right is Barbara Scollick. Barbara is the general manager of the Richmond Hill chamber.

You should have in front of you our submission, and I'm going to walk you through it. The Richmond Hill Chamber of Commerce is a business association representing over 500 employers of various sizes and sectors in the Richmond Hill area.

Like the Ontario Chamber of Commerce, we are pleased to participate in this review of Bill 15. Our members have been concerned about workers' compensation issues for quite some time and fully support our involvement in the consultation process which has led to short-term reform of WCB through Bill 15 and medium-term reform through the Jackson review. We intend to continue our involvement in this issue as the government presses ahead with much-needed changes to the workers' compensation system in Ontario.

The major stakeholders in workers' compensation have agreed for many years that reform to the system is absolutely essential. Many of the areas covered by Bill 15 address this need: governance, financial accountability, fraud and revenue loss.

First of all on governance: Like the Ontario Chamber of Commerce, we support shifting from a bipartite to multi-stakeholder board of directors. It is critical that a WCB board of directors be composed of the best available individuals whose skills and knowledge, when taken together, will allow for a combination of strategic planning and macropolicymaking. We must move beyond the bipartite WCB model, which pitted vested interests. When appointing directors, consideration should be given to individuals who have the appropriate experience with the issues, for example actuarial and insurance backgrounds, as well as previous experience working on boards of directors. It is important to make the distinction that the directors are from their respective communities and not representative of them.

We support subsection 58(2) requiring the board of directors to act in a financially responsible and accountable manner in exercising its powers and performing its duties. The board of directors will therefore have respon-

sibility for combatting the financial crisis which faces WCB.

We cannot stress enough how concerned our members are about the financial sustainability of the WCB and the annual costs which it imposes on them. For example, when the 1995 assessment rate was set at \$3 per \$100 of payroll, it was the second-highest rate in the country, and without the unfunded liability would have been \$2.12.

We feel that in order to address both financial and administrative issues, the board of directors must be given final say within the workers' compensation model. Therefore, we recommend that this be reflected in Bill 15 in two ways. First, Bill 15 should clearly provide the WCB board of directors with final authority, that is, final say in workers' compensation. Secondly, Bill 15 should guarantee the independence of the WCB from government.

We support the provision in Bill 15 to strengthen the memorandum of understanding—the MOU—between the WCB and the Minister of Labour. This will go far in ensuring greater accountability at the WCB.

We believe that the MOU is an important first step but does not go far enough. Accountability can be enhanced by involving stakeholders in a dynamic consultation process with the WCB system. For example, within the WCB an effort was undertaken in 1994 to formulate a policy agenda which would establish the policy issues to be reviewed for the next year. This was a very positive initiative and we recommend it be added to the statutory approach in Bill 15 so that it can be undertaken on an annual basis. A second mechanism to further this accountability would be to establish an external review body mandated to review the WCB concurrent with the termination of an MOU.

We are particularly concerned by the use of the term "material change" in section 22.1 of the bill because the term is undefined and its application would be based entirely on the discretion of the WCB. We recommend that this issue be the subject of a consultation process with the stakeholders, who would assist the WCB in defining the term and determining appropriate policy.

0920

However, we do not support the Bill 15 provision which requires employer registration within 10 days. We recommend this be amended to 30 days to be consistent with the current act.

On fraud and revenue loss: Bill 15 contains significant changes to the penalty provisions in the act. While we support the principle of toughening the approach to non-compliance, and particularly to recovery of overpayments, we are concerned that a maximum employer penalty of \$100,000 is not practical. If the intent of Bill 15 is to penalize non-registrants, this will certainly guarantee a further problem. If an employer fails to register when a slighter penalty exists, what provision will there be for an employer to come forward voluntarily? If the WCB had the capability to find the non-compliant employer in the first place, then these penalties would be unnecessary.

We feel that a more flexible approach is needed and recommend that, to encourage all possible registration

and maximization of revenue for the WCB, a one-time employer amnesty be adopted for a six-month duration period. This initiative would require communication by the WCB and upon its conclusion, the provisions of Bill 15 could apply.

This report is respectfully submitted by the Richmond Hill chamber.

The Vice-Chair: Thank you very much. Mr Christopherson, you will have the opportunity for the first question here on the presentation that's just finished.

Mr David Christopherson (Hamilton Centre): Pass.

The Vice-Chair: We'll go to the government side then for the first question. Mr Maves.

Mr Bart Maves (Niagara Falls): We've had some presenters say that the unfunded liability is not a problem; others have said that it is a problem. I'm assuming you believe that it is. On page 3—I'm interested in the end of the first paragraph—you say that without the unfunded liability it would have been \$2.12. Could you explain those numbers and explain why it's such a problem in your eyes?

Mr Jason Mandlowitz: In establishing the average schedule 1 assessment rate for 1995, the board set it at \$3 per \$100 of payroll. Assessment rates are made up of three components: the cost, in-year, of new claims, so current and future costs of claims in a year; overhead; and unfunded liability. In 1995, 88 cents of the \$3 target rate for schedule 1 was attributed to the unfunded liability, and that's how we get to \$2.12.

In addition to its impact on assessment rates, the unfunded liability has a negative impact on experience rating. It is a significant component of the expected cost factor, and so long as it reduces the expected cost factor for NEER purposes, it will dampen the incentive for return to work and re-employment that has earmarked NEER over the years and made experience rating so successful. So there's a double negative impact for the unfunded—

Mr Maves: There have also been some statistics put forward about a large number of companies that have not paid their premiums, and the WCB's had to write these bad debts off. I'm sorry to ask this of you. I would have liked to ask it of some other perhaps more umbrella groups, but unfortunately you don't always get to ask the questions you want to ask of the groups that are in front of you. I'm curious as to why you believe so many employers seem to default on these payments. Are a lot of them just going out of business? What in your eyes would be the reason for so many of these?

Mr Chwartacky: That would be part of it. I think there are several components. Through my personal experience—I'm a public accountant—I have run across situations of people with their backs up against the wall and their belief that it's just unfair, that enough is enough. It's a catch-22 thing. They have to meet payrolls or meet current expenses to buy supplies etc, and things like that happen, unfortunately. I'm not saying it's right, but it does happen; and to some extent, which is mentioned at the end of our proposal, ignorance of the registration process or maybe wilful non-compliance, I'm

not sure, but maybe just ignorance of startup organizations understanding when and how to register because of complexities in various government things they have to register for.

Mr Maves: Have you seen an increase in the propensity to default during the recession?

The Vice-Chair: We should limit it to two questions. I'm sorry for cutting you off, but in fairness to others, we should proceed now to Mr Duncan, please.

Mr Duncan: Good morning and thank you for your presentation. I was curious about your comments. You reflected something that we had expressed a concern about in the Legislature, and that's the whole notion of political involvement in the affairs of the WCB.

You stated in your presentation that you recommend that Bill 15 clearly provide the board with final authority and that it guarantee the independence of the WCB from the government. Then you went on to endorse the memorandum of understanding clause. I see some contradiction there. I refer you to subsection 13(1) of Bill 15, which reads, "Every five years, the board and the minister shall enter into a memorandum of understanding containing only such terms as may be directed by the minister." Then further, subsection 13(2) deals with the requirements of reporting to the minister. Ultimately, I read this statute, particularly the issues around the memorandum of understanding, as potentially bringing government and the board even closer together.

I wonder how you reconcile that opinion. I would suspect the business community's concerns may not be as strong today, given the current government, but would you still feel as comfortable with the memorandum of understanding clause if you had a government that was less sympathetic to the business community?

Mr Mandlowitz: The answer to the last question is no. I think our job in this building and the job of public policymaking is at all times to enter into the design of the best possible workers' compensation system, politics aside, although politics is a major part of it, obviously. That's where I separate the two comments that you pulled from our presentation.

I'd suggest that the memorandum of understanding has much to do with the issue of public accountability and it is absolutely prudent for the Legislature and the Minister of Labour, who reports to the Legislature, to hold the organization accountable. That's what this is about. This is a forum for public accountability, but this is not necessarily a forum for independence of administration, and that's where I make the separation. When we want politics removed from the WCB, we believe that the board of directors in its new format should have responsibility for administration. The legislative process has responsibility for public accountability.

The Vice-Chair: A very short one, Dwight.

Mr Duncan: Supplementary, then. I understand where you're coming from. I guess what I'm trying to get at in terms of your views—because frankly I agree with what you're saying, in a perfect world. But if you look at subsection 13(2.2), it states:

"The memorandum of understanding may address the following matters:

"1. Any direction by the minister about programs to be reviewed under subsection 77(2).

"2. Any matter proposed by the board and agreed to by the minister.

"3. Any other matter the minister considers appropriate."

I just put myself in the current minister's shoes. These wacko guys on the opposition stand up and demand that the minister use her authority that's contained in the memorandum of understanding to investigate this or that. My fear is that we open the door to a lot more political interference in the administration of the affairs of the WCB and that whatever gains we may make by moving to a multi-stakeholder model with an independent board could be lost because of that. I'd like to hear your views on that.

The Vice-Chair: I'm sorry, we're not going to be able to do that. We've expired our time. I guess if the questions are short, the answers can be longer.

Mr Duncan: What about more time for hearings?

The Vice-Chair: With that, I do appreciate your being here this morning and your contribution to the process. Again, sorry for the delay. Thank you very much for coming.

0930

BEYOND ABILITY INTERNATIONAL

The Vice-Chair: I would appreciate very much if the next group came forward: Gerald Parker.

Mr Gerald Parker: Good morning, ladies and gentlemen, those honourable members of the committee. My name is Gerald Parker. I'm the president of Beyond Ability International, which is a company that provides advocacy training and education on accessibility. We also provide consultancy and publications for the accessible tourism industry in Canada and internationally at large for the disabled community.

I am an injured worker, a student injured worker, who back in 1987 was injured on the job while having to undertake a full-time job because of economic circumstances. Due to the circumstances that prevailed from that, I have had three major back operations. I returned back to school under my own resources to have to undertake the complete undermining of the Workers' Compensation Board in its excessive ineptitude. I take that and I say that from not only a personal perspective, but that of a political scientist.

During my studies, I undertook quite avidly to research the Workers' Compensation Board in Ontario specifically. I have been present before the standing committee on resources development for Bill 165 and also the Royal Commission on Workers' Compensation. Today I will tell you that I am a proud and pragmatic Canadian who knows we are a nation that resolves political and social injustices and reconciles divisiveness, not encourages it. We are not all equal in ability or resources.

I have presented before this and told you my views so I will not elaborate on them any further because they are a matter of public record.

Because I have a specialized and personal knowledge of the board and the act, I will not—repeat, will not—avail this technical and practical expertise to this committee. You ask, why not? In the province of Ontario, nothing is for free any more, nor is my time or energy. I'm not getting paid like the board of the chamber of commerce. I'm here on my own time, free will, energy and honourable intentions. If you'd like to speak to me after the fact, I'd be more than willing to sit down for as long as you so choose to go over my technical expertise of this bill, and I will send you a bill for it.

I will give you a brief synopsis of my experience with the board. Like I said, in 1987 I was an injured worker, a student worker, a full-time job because of economic circumstances. I've had horrendous treatment. I've been cut off literally 12 hours after coming out of a major back operation that kept me in bed for the entire summer. I've been sent to sociologists who have tried to tell me that my fractured vertebra was in my head—a sociologist sent by the board. I undertook my own rehabilitation by myself under my own recourse at the Canadian Back Institute. This was despite the board and at my own cost.

The systematic methods of attrition continue to just simply continue. There are delays. There are barriers and there is misinformation and subsequent cutoff because of it. Accountability is a very, very important issue. If you want to focus on something, bring the board to be accountable as a schedule 4 entity. They, as perhaps was referred to you before by a prior presenter—their political influence within the board.

I am not a union member or a party of a union. I was. My union never helped me, never even placed a phone call to me when I was injured, did not give a hoot about my family and my wellbeing. I am not a person in an executive position, or at that time I wasn't a businessperson. I was simply a guy trying to get through school to make this future a little brighter for us all. Today I am doing that despite the odds.

If we are going to undertake and deal with this honourably, to deal with the potential that our future has to offer in the stock of our youth, we have to understand that economic circumstances require us to work. We are not back in the 1950s when you can stay home until the age of 23 and live quite comfortably. We have to pay our own tuition and, as the budget referred to last week, 20% more. It's increasingly more difficult for us to do that, so we have to work.

What happens when a student worker is injured on the job? They don't have the support of the union; they don't have the political or economic resources to take a form of address. So what happens? We're left out in the cold. I was forced on to welfare. If you remove a person from a WCB docket to welfare, you're simply offsetting the cost. That is a position the Workers' Compensation Board does all the time, and I say that personally, I say that academically, because I spoke with over 500 people during the course of my research.

There was a comment made, and this has been a continuous and consistent comment made, that the business community is homogeneous. We're not. Some of us care. Some of us care about the wellbeing of our

employees. I, for one, now have a business where we are bringing in \$25 million of wholesale tourism into this region: \$25 million. I care about my people who work for me, because they're valuable. I could not be prosperous without them. They have expertise and they are valuable to me. They are not a commodity, they are people. They are not numbers, they are people.

I know the cost of doing business in Ontario. I know the benefits of doing business in Ontario. I have chosen to do business in Ontario, and I assume those costs and benefits. I do not whine about them. I do not say, "Oh, well, if I don't have liability coverage for my workers and they're going to sue me, I'm going to lose the entire business that I've worked so very hard and long to get." But, no, I pay my premiums, and thankfully so, because I know that without those premiums I would be out of business in a second, as most of us would be in this libellous age of ours.

I want to reiterate that the Workers' Compensation Act and in its conceptual basis is a quid pro quo relationship. To extract the tort law out of the injured worker and the workplace, you have to give them the reasonable rehabilitation and the reasonable cost of being able to survive. That is the quid pro quo. You cannot lose sight of that. This is not a cost-benefit for business. This is a matter of conducting business and having a healthy and active workforce in this province. I encourage that perspective because it is a realistic and pragmatic one. It is not one vested in any political basis. It is simply one that says: "This is the reality. We want a workforce, we want a healthy workforce, we want to have good relationships within that workforce, because they all add to productivity. We want productivity, because productivity turns our economic turbines, which makes us all happy, our families happy and well fed." Without that, we have a certain level of injustice, and I don't want to tell you—I am not left-leaning. I don't want to tell you that. I'm a pragmatist.

To finish off, if you were to remove the tort from the relationship, from the act, I tell you I would have been the first person to sue my employer because of their negligence. I would be certainly a lot richer than what I am today. I would not be earning 90% of minimum wage in 1987, for God's sake. Is that what my potential is worth to the board, 90% of minimum wage based on a 1987 index? I'm a student, I'm not a worker, and no disrespect to those who have to be part of our economy to provide that manual work, but those people, for the better part, are less educated, less resourceful, less able to articulate themselves before boards or committees such as this, and they're left out to dry.

The unions are not necessarily there to help them. There are two ends of the equation here—business interests, union interests—and everybody in between is left out to dry. Let's do something about that. Let's make people accountable. Let's say when a doctor drags a patient across a room, bends him over four different ways, causes that person to be in pain and in severe pain for more than a week, that by any stretch of the imagination is malpractice. Why would the board be exempt from that? It simply boggles my imagination why as a

schedule 4 entity you're looking to give them less, or some may purport to give them less—or more autonomy. We cannot accept that.

0940

Please understand that I am a businessperson. I care about the people who work for me and I care about those who are around me, because I know that if a person beside me is not performing to their potential, then we all, as a group, are not doing as such.

I understand the benefits and costs of continuing business in this province. I've made that choice, as every other businessperson has. Live with that decision. Don't cry about it, don't whine about it. Don't say, "Lower my premiums; I don't want to be responsible for my workplace activities." Don't do that. Make them accountable. Say, "We want healthy, safe workplaces for people to live in and enjoy and produce this economy, to grow and to prosper so that we can all live a healthy and happy life."

Mr Ted Arnott (Wellington): Mr Parker, thank you very much for your presentation. I don't think I have any specific questions, but you certainly offer a unique perspective and have obviously experienced considerable difficulty dealing with the board. We certainly appreciate your coming in today and your interest in talking to us. Thank you very much once again.

Mr John R. Baird (Nepean): I have two questions. You mentioned the way the WCB, for lack of a better word, administratively handled your case. What was your experience there and what would you see as room for improvement?

Mr Parker: I may preface my remarks by saying it's not just how they handled my case, okay? When you start talking about people—and I will tell you, in speaking with the amount of people, you start looking at the degree of desperation, the marital breakups, the dissolution of relationships, the forfeiture of mortgages etc etc. It's not just me, it's many, many other people. I take my experience and I try to crystallize that.

More specifically, though, I had a fractured vertebra. There were X-rays that clearly diagnosed that. It had been diagnosed for two and half years. I was forced to be in chronic, continual, the absolute most unbearable pain, if you can imagine part of your spine sitting there grinding every time you moved for two and half years. You know what the board's response to that was? It was to send me to a sociologist who told me my fractured vertebra was in my head—a sociologist, not even a medical professional.

Despite having the X-rays and pointing the X-rays out to this individual, I was told that I had a bad attitude. Now, I may come across as somewhat abrasive sometimes, and I apologize for that, but it is my style and I don't take no and I will not take, pardon my language, any crap because of the situation that I've been forced through with the board. I thank you for that, I really do, because it's given me a level of independence and confidence to be able to stand up against people who otherwise don't care about anybody. You call up the board and they say, "Claim number?" I say, "No, the

number that is assigned to the file of Gerald Parker is..." I am a name, I am a person; I am not a number. I am not an actuarial statement.

From that I found my own doctor, a very renowned orthopaedic surgeon, and we made the choice: "You are a student. You have to have surgery. That is the case." I said, "When can we have surgery?" He said, "Six months later, that's all we can book." I said, "Look, for purposes of refocusing the very excruciating pain that I'm suffering, my academics are the only way in which I can refocus that."

So I went back at my own cost, as I had always anticipated, and did not expect the board to pay a single dime of my tuition. However, I was cut off as soon as I went back to school on a modified basis. The end result of all this is that after four years of having medical recourse exhausted, I could have turned around to the board and said, "You're obligated to retrain me," and taken another three years to do that. But under my own recourse, my own motivations and my own moral ideals and principles, I paid for that. I undertook that and I took responsibility for myself. The board wasn't going to do that, nor did I expect it to do that. But I took responsibility for myself, to have what? To be cut off. Literally 12 hours after coming out of intensive care, to spend three hours completely sedated under morphine, trying to get through to a board that would not give me any answers. Red tape, red tape, red tape.

Systematic methods of attrition, if you'd like to know precisely, is the terminology that I utilize, because it certainly is. There are barriers, and so many people stumble over those barriers, you have less people; therefore, you have less of a docket to deal with—attrition, and that's exactly what it was. I had the full medical credentials, the reason to be under the board's protection. And that is what the board is mandated to do, to protect my interests as an injured worker. That wasn't undertaken.

I was compromised, severely compromised. My marriage almost broke up, and I only give it to the fortitude of my wonderful wife, because I tell you, you put a person, a well-motivated individual with a great deal of energy, in a very, very desperate situation, in a corner, in a lot of pain, and they can't do anything.

Your group, your committee, is resources development. You are here to develop and to bring out the resources that are being squandered by the Workers' Compensation Board, not just from the workers' perspective but that of the business perspective.

I can tell you, as an injured worker, I have a real problem with the amount of people who are defrauding the system, but not to say that the criminality that is within the system is so rampant that it justifies the approach of casting everybody into the same net, of saying, "Well, you're all trying to defraud the system, you're all lazy laggards who don't want to work, and therefore we're going to treat you all with the same disdain, and exercise these methods of attrition." That was the case constantly, on and on and on.

I have plates in my back now. I've had three major surgeries. I have plates in my back. The one thing that

can really help me is good shoes. Good shoes. Five years and I am still waiting for a decision from the board on good shoes, proper shoes. Shoes like these, Rockport Vibrams, cost \$130. I can't afford it. I don't have that money right now to be offsetting the board's cost, because God knows, I am \$90,000 in debt because of the board.

The Vice-Chair: Mr Parker, I don't mean to interrupt you, but we've actually gone beyond our time. I do thank you for coming forward today and making a presentation. I'm sure that your points will be taken into consideration as we go through the process of reviewing the bill.

Mr Parker: I would like, as an ending note, to extend to any member of the committee or their parliamentary assistants, if they so choose, to contact my company and we can talk about this a little further. Fifteen minutes by no stretch of the imagination does justice to these issues. I would certainly encourage any one of you to give me a call. I am a very reasonable individual. I get passionate about this issue because it hurts; it hurts an awful lot.

The Vice-Chair: Mr Parker, we don't have a written presentation from you. I wonder if you have a business card you could leave, if somebody does want to do that.

Mr Parker: Absolutely. The clerk has my new address. I've actually just moved offices this weekend. I will leave my card anyhow, and if you choose to contact me at the address the clerk has, I'd appreciate that.

The Vice-Chair: Thank you very much then.

Mr Parker: Thank you very much, ladies and gentlemen.

0950

MICHAEL GREEN
GARY NEWHOUSE

The Vice-Chair: Would our next delegation like to come forward. Good morning. Once again, sorry for the delay. I think you were here at the start. I know we started late, which doesn't help anything in terms of the process. I would ask you to introduce yourselves for the sake of the committee as well as Hansard.

Mr Michael Green: Good morning. My name is Michael Green.

Mr Gary Newhouse: My name is Gary Newhouse.

Mr Green: We are both lawyers who've represented injured workers for over 10 years. We apologize for the lack of a brief; reasons of cost and time.

We're here for only one purpose, and that is to ask the committee to recommend the removal of two sections of the act: section 22.1, which is the section that imposes obligations on workers to report "material change in circumstances" to the board; and subsection 161(2), which makes it an offence for a worker to fail to do so.

We have essentially two reasons for that. The first reason Mr Newhouse will deal with in greater detail in just a minute. The first reason is that workers have no idea what changes in circumstances are material. He'll go through with you in greater detail the problems that exist in deciding whether a change is material.

The second is that there are bound to be hideous disputes about what was reported and what was not

because of the board's failure to accurately document what workers tell them. Processing this in a criminal matter will create problems that I don't think were intended to be dealt with in a criminal process, and we'll deal with that a little bit later. I'll turn it over to Mr Newhouse who'll talk to you about the material problem.

Mr Newhouse: As Mr Green pointed out, the wording is, "A person receiving benefits or who may be entitled to receive benefits," is supposed to notify the board. On the question of what's material, obviously there's nothing in this bill and there's nothing in the act now about what a material change would be.

I would suggest that not only would injured workers not know what a material change in circumstances would be, but neither would their representatives, such as ourselves; nor, more importantly, would the people at the board who'd have to decide this. The reason it's complicated is because any particular situation or whatever might be considered a change in circumstances could be material, if we know what that means, or not, depending on what the person is getting from the compensation board.

One thing that bothers me the most right off the top is an obligation, as is set out in section 22.1, to notify the board even before potential benefits are being paid. What that means is that we often have cases—in fact, I think it's the rule rather than the exception—of workers who are hurt and go weeks or months before the compensation board manages to decide whether or not they've had a compensable injury. Is that worker in those weeks or months supposed to be somehow sitting back deciding whether or not something is material when they don't even know what they're going to get from the board? It's an impossible situation.

Once they are entitled to benefits, depending on the benefits, various situations may or may not be material. Just to give you some illustrations, if a worker goes back to work at some point, if they're receiving benefits on the basis of temporary total disability, that's a pretty easy one most of the time. On the other hand, what if they're getting a future economic loss award? They're expected to go back to work, unless it's a 100% award, and furthermore, the way the FEL awards run, there's no obligation on anybody to be reporting anything until the reviews are done at regular statutory intervals. So work may be relevant, it may not be relevant.

Something like going on a vacation—the board actually has a policy which entitles workers to take a couple of weeks off in a year, so that's not necessarily a problem. The policy says they're supposed to be doing it at a time when it wouldn't interfere with their vocational rehabilitation status. Is that a material change? Who's going to know? It can get awfully, awfully silly. What about other health problems? Someone is off with a bad back and they develop a heart condition. Is it a material change in circumstances? How serious is the heart condition? Who decides? Who knows?

The board already has mechanisms and policies to consider these things. There's no reason to impose an extra layer of obligation and an extra layer of confusion and bureaucracy on the system as it already exists.

Mr Parker, who was just here, talked about how he got cut off when he enrolled on his own in a course. We've seen that happen many times. Is that a material change in circumstances? If the board is sponsoring the course, no, it's not. But if the worker decides to show some initiative and enrolls in a course, they may get cut off, even though they're doing, as Mr Parker apparently was, the very thing that the board would want them to do. On top of being cut off, are they also going to get charged under the act with having failed to notify the board in a timely manner of a material change in circumstances?

The list goes on and on, and the bottom line is, by putting in a provision like this, all we end up doing is making situations more confused, more difficult, at a time when undoubtedly the pressures are being put to reduce the number of staff at the board. Put things like this in and you're going to have to hire more people to figure out what is material and what isn't.

At that point, I'll turn it back to Mr Green.

Mr Green: Our second point revolves around the nature of making a positive obligation and the source of disputes that this will create, and to understand this, you have to understand how the board works, how workers report to the board.

Workers are sent forms, a worker's report of accident and worker's progress reports. The worker's report of accident asks for details of the accident and earnings information, who their supervisor is and that kind of information. It's filled out typically around the time of the accident. Then a worker's progress report is sent to the worker periodically during the life of a claim and it asks the worker whether the worker has returned to work and whether the worker has been told by his doctor to go back to work. Those are the basic questions that are on the worker's progress report.

Basically, none of us, I don't think, has any problem if a worker is charged for lying significantly on one of those reports, saying the worker is not working when the worker is working, and there would be some benefit consequence if the worker didn't.

The problem is, that's not what this section deals with. What this section deals with is a situation where the worker is under a positive obligation to call up the claims adjudicator and say, "I got a job," or "I have this other health problem."

The way that's recorded by the compensation board is, the claims adjudicator will do a memorandum. The difficulty with that is that the memoranda are notoriously inaccurate and have been found to be so by the board's own employees on many occasions. The board's employees, hearings officers, have often said, "I don't believe what's in the memoranda." Mr Newhouse and I both have had that experience at hearings officer hearings.

It's one thing for that to occur in the context of a hearings officer hearing. It's another thing for that issue to arise in the context of a criminal trial for fraud, and that's what this section will mean, that we are going to get into disputes between workers and claims adjudicators about what the worker did or did not say.

It's our submission to you, suggestion to you, that that's undesirable, that the board has no need to have claims adjudicators be witnesses and defend their own credibility when they make the memoranda about what the worker did and did not say. That's what this section will lead to.

It would be a lot simpler, if the board has concerns about reports that workers are making and not making, to simply send out progress reports, as they do already, and ask for the information they need. If the progress report is filled out incorrectly and inaccurately intentionally, then by all means a fraud charge can be brought.

But this section, by imposing a positive obligation, with the understanding the positive obligation will be fulfilled by a telephone call—that's how workers communicate with the board when they don't get a progress report—this is a recipe for criminalization of the compensation system, and that's not something that I think we want to see.

Those are the two reasons why we think this section should be removed.

I do want to point out that concomitant with the introduction of this bill in the Legislature, the Workers' Compensation Board introduced new policy on fraud, and it contained one disturbing element that the committee should be aware of. It created a different standard of fraud for workers and employers. Traditionally, the standard of fraud for workers was the same as for employers: intentional misrepresentation. Curiously, the new board policy now speaks of worker fraud as being "deceiving." It doesn't sound like much, a change from intentional misrepresentation to deceiving. Well, there is a difference. The section doesn't necessarily require the same mental element of intending to deceive.

1000

It's probably best illustrated by an example that members of the committee will be familiar with. Premier Harris promised, as you'll recall, during the election campaign that there would be no cuts to health care and then introduced a budget in which he cut—cuts to hospitals—and he said later that his intention was at the end of the term to build up the budget to where it was at the beginning of the term. Now, I'm not suggesting that he intentionally said something wrong to the public. I am suggesting to you that it's deceptive, and I think that's the way others will see it. That distinction between what's intentional misrepresentation and deception is an important distinction, and it's important that the compensation board be made to understand that there's one standard for fraud; it is the same standard for workers and employers.

With that, we'll take questions.

Mr Duncan: With respect to section 22.1 and subsection 161(2), the whole question of material change is becoming a recurring theme both from worker representatives and management representatives. You have said that those sections should simply be left out of the act. Is that correct?

Mr Green: Yes.

Mr Duncan: And that the whole notion of material change should not be dealt with?

Mr Green: That's correct. The reason is because the Workers' Compensation Board can ask for information and then workers can be under a positive obligation to reply to those questions, as opposed to—

Mr Duncan: To having an obligation to report any material change.

Mr Green: Yes.

Mr Duncan: Therefore, you would not support any kind of notion that it should be left out of Bill 15 and perhaps referred to Mr Jackson as part of his consultation for amendments he's considering, in the interim? You're just saying it's not necessary.

Mr Green: It's not necessary, no. If it's referred to the minister, that's better, obviously. We'll take half a loaf instead of no bread.

Mr Christopherson: Thank you very much for your presentation. I want to follow up on the issue of material change. Do you have any sense of why the government would even want anything like this in there? Is there an alternative that achieves that objective, or is this just very much a misplaced idea that ought to be dropped entirely?

Mr Newhouse: I think it's a misplaced idea that should be dropped entirely. I think the intention, if I can be blunt, is to create sort of a chilling atmosphere where workers will be under the impression that if they do anything wrong or say anything wrong, not only might their benefits be cut but they might go to jail or pay big fines or something else. In that kind of atmosphere, it encourages, along with the delays of the board and everything else, a backing away from the system. Injured workers will say, "Well, gee, maybe it's better not to go on workers' comp at all; maybe it's better to file for sickness and accident through the company," or whatever, because these guys—it's like, you can turn around and you might go to court for this or that, and I think it's all part of a larger picture, which is totally unnecessary, in terms of the actual running of the system, but perhaps understandable if the objective is to raise as many barriers as possible to compensating injured workers.

Mr Christopherson: Can I ask the parliamentary assistant a question on that?

The Vice-Chair: No. I think we've set the process in the previous hearing days of not doing that, so I'm sorry, not at this time.

Mr Baird: On a point of order: I think what the Chair ruled on on Monday was that following the presentations, between them was—

Mr Christopherson: Okay. Good.

Are there any regulations in this regard that would mitigate your concerns, or once you walk down this road are you pretty much into that chilling effect regardless and that's why you think it should be struck?

Mr Newhouse: I think that's the answer, that once you start, you're stuck, regardless, and regulations would just add to the bureaucracy and the confusion. Again, it achieves no valid compensation purpose. That's really what our view is.

Mr Baird: I just wanted to ask a question with respect to fraud. Obviously, one of the points of this bill

is to attempt to deal in a substantive way with revenue leakage. You mentioned that a worker might be concerned that if they do something wrong, their benefits will be taken away or they would be fined or even go to jail, speaking, I suppose, to both workers and employers. What do you think should happen if there is a case where there is misrepresentation of the circumstances by either employers or employees?

Mr Green: Just to be clear, this section isn't about misrepresentation, it's about a failure to represent. It's not a worker saying, "I'm not working," when the worker is working. It's about an allegation by the board that the worker didn't come forward to say, "I'm working."

The difficulty with that, as we've explained to you, is that that's not always material, and the worker will never know whether that's material, and the board may not know, frankly, whether that's material.

But if you're asking the question, what if the worker says, "I'm not working," and the worker is working when the worker's receiving temporary total benefits, those are already prosecuted now.

The Vice-Chair: Thank you very much. Unfortunately, a supplementary won't be afforded at this time because of time. We do thank you for coming this morning and making your presentation.

At this time I'd like to entertain the idea of Mr Christopherson posing his question to the parliamentary secretary, just between presenters. As I understand, that was the order we did.

Mr Christopherson: Just a quick question and follow-up to my questionnaire: Is the government planning to do regulations on material change as it now stands?

Mr Baird: Whether the act is implemented by the board, that'll be, I suppose, up to them to determine both the regulation scheme, and of course there'll be jurisprudence, as with any piece of legislation, on what that means in practice.

Mr Christopherson: But you're not planning to introduce them as any kind of a—

Mr Baird: The regulations?

Mr Christopherson: Yes.

Mr Baird: That would be up to the WCB to implement, as it would be up to the OLRB to implement large portions of Bill 7, for example.

Mr Christopherson: Can I swing over then to the research? You've got a law here. Are there not regulations that are naturally attached to any law, or are they handed over to the public agency, in this case? I'm talking about legal regulations that are usually passed by cabinet.

Mr Ray McLellan: I'd have to refer that to a lawyer in our office. I couldn't answer that right now, but I will get back to you.

Mr Christopherson: Thank you.

The Vice-Chair: I would ask the committee's cooperation in another adjustment to the schedule, if you will. As we noted, 9:45 wasn't attending and 10 also cancelled and they are not showing. We are now actually about

four minutes ahead of schedule. Can we agree to introduce the next party on the agenda instead of waiting till 10:15? Okay.

1010

UNION OF NEEDLETRADES, INDUSTRIAL
AND TEXTILE EMPLOYEES,
ONTARIO JOINT COUNCIL

The Vice-Chair: I would then ask that the presenters for the next group, the Union of Needletrades, Industrial and Textile Employees, Ontario Joint Council, come forward. Good morning and welcome to our process here. Just for those in the room who have attended after the first announcements, we are limited to a 15-minute presentation time. Inclusive of that is the question and answer period. If you choose to allow that time, that's certainly your prerogative and we'll proceed that way. I'd like you to introduce yourselves, please, for the sake of the committee members and for the Hansard.

Ms Pat Sullivan: I'm Pat Sullivan, the Ontario director of the Union of Needletrades, Industrial and Textile Employees, the Ontario Joint Council.

Mr Jonathan Eaton: I'm Jonathan Eaton. I'm a researcher with the Canadian office of UNITE.

Ms Sullivan: I appreciate very much the opportunity of coming before the committee. I think it was something we hadn't anticipated, with the way the government is working, the fact that this has come to committee. I appreciate the opportunity of coming before the committee.

I'd like to introduce a little bit about our union. It's one of the newest unions in Canada, resulting from a merger with one of Canada's oldest unions, the Amalgamated Clothing and Textile Workers Union and the International Ladies Garment Workers. We merged into UNITE, effective July 1 of this year.

We represent a wide variety of industry, not only in the apparel industry but we also represent auto, chemical and stuff, but our primary industry is the apparel industry, and we have 30,000 members across Canada, over 10,000 in Ontario. It's primarily women; a majority of them are immigrant women and visible minorities. They're not rich. They don't have cellphones in their cars, they're not freeloaders and they're not interested in cheating on workers' compensation claims. Often they're struggling just to maintain a decent living wage.

I have some concerns, I guess, with the restructuring that's going to come under the WCB and how it will impact our members. A lot of concerns are coming out with the changes, taking away the bipartite board and putting on representatives who probably will be only representing employers. If you go through history and some concerns and problems that have been addressed over the years with the compensation system, once we got the bipartite system in, it started to work a little bit differently. With a lot of concerns raised by workers, workers' representatives at least had an opportunity to raise their concerns and be heard and acted upon.

I don't think the committee even had a chance to really get working and now it's being disbanded, even though facts have shown that the system was working better than

it had in the past. If it isn't broke, why are we fixing it? I think that's a concern of this government, of taking it totally in the hands and the control of the employers.

I'm also hearing rumours going around that there will be possibly a point where labour can participate, but it's going to be such a small core of what that agency will look like that it won't have a lot of input, but it's also going to have from other areas, say, business. The insurance companies are all sitting in the wings waiting to take over the control of WCB, and I guess we can look at other areas where insurance companies have got involved; it hasn't been in the interest of anybody, workers or non-workers. The insurance companies take care of themselves, and I have some concern with that.

As a union, dealing with insurance companies on a daily basis, whether it be for weekly indemnity benefits or extended healthcare benefit insurance, as days go on it gets tougher and tougher. Even though you have provisions under your collective agreement that very clearly state when workers are going to get their benefits, they still erode the provisions under your collective agreement by being an insurance company that has the almighty power at the end of the day to decide whether or not they get their claims or whether they get their benefits paid for. So I have some real concern when you start to put it out to the hands of private interests out there.

I also get concerned about the way this has been ramrodded through. The government comes into power and within the first month put in Bill 7 and then quickly following that the changes in the WCB under Bill 15. I guess that's why I come back in surprise that this is even coming to committee. Maybe the government is starting to learn in the passing of Bill 7 that maybe we have to listen to the public out there and what their concerns are.

The government actions are an affront to democracy. There's substantial evidence to prove that the compensation problem—I think some of the things that were said—I'm trying to get everything in in the short period of time—is that we're at a disastrous level here now and it has to be taken of. It's shown in fact that the WCB has a lot of money, it has a large surplus, and that there's less money being spent than in years past. If that system isn't working and they're going to put in a new system, that goes back to reflect what it was when the Tories were in power before, when it was in a worse position than it was today.

I don't understand where the government is going. I can look at the areas where our members have concern, I guess the expected change that will come in after Bill 15 when they come in with changes to the act. A lot of our members, especially in apparel, suffer from repetitive strain, carpal tunnel syndrome, neck and shoulder injuries from working at machines that the employers haven't adapted properly in the setup of their equipment. I know the cases we're fighting on a constant, daily basis to try and get them recognized now as work-related.

You know, you have hundreds of people dying in the workplaces and not being recognized. I guess one out of every 17 deaths on the job are related through compensation. To open this all up, I think we are going to go into a worse position than what we have been in many

decades, and the opportunity of workers not to have any input into the law which they will now have to live under.

Health and safety will be eroded. There are also rumours coming down in leaked documents that they're going to cut down the number of inspectors who would go under the health and safety. The safer your workplace is, the less chance you're going to have of accidents and injuries and claims being filed. If you start to take that away, take away the certification core training that workers are given out there, that there will be no implementation to force the employers to have certified members in health and safety, then you're going to back to the days of old when your prices were really high and people were getting injured and what avenue we're going to have to go.

If the problem is, as in the government's statement that they think there's a lot of fraud going on in WCB, then deal with the issue of fraud, but I don't think it's anywhere near the majority of the claims that are out there. I think the claims are legitimate. I know the claims that we're dealing with on a daily basis are not fraudulent cases. Even now under the system I think there's a lot of room for improvement that was there, let alone going in and putting it back and taking delays of two, three, four months before they even get reimbursement for their claims that are very legitimate where the doctors and the specialists are all saying it's work-related. In some cases, the companies have agreed and said, "Yes, this is work-related" and yet the compensation board still will not determine whether it is work-related. To put things into there with fraud and whether you do it and pressure will be now put on to the employers—we have a number of employers that even when employees are being injured at work, they won't file the proper paperwork. They're refusing to send the paperwork that by law must be sent in and nothing seems to ever happen to these employers. If you now put them on a board that's now going to make a decision on what kind of system is going to be in place on behalf of workers, any indication that I have from a number of employers—that's a large number. It's not just a small number of employers who will take advantage of the situation and put it in there that it would work for employers and not employees.

Insurance is there for the benefit of being able to take care of people if something happens. If the system isn't going to work and you erode that even further, people are not going to report claims, they're going to continue to work when they're injured, and the injuries will continue to get worse and then it's going to end up costing a lot more, a lot more time, lost productivity. There are going to be problems in the workplace where the people are going to refuse to do the work, and I have a lot of concern in that area.

Just on the whole bipartite board, I think it was really working to achieve being workers' representatives and labour and business and everybody in there together working; it was starting to really work. The evidence was there that it was working. Injuries were being reduced. Workers were getting back to work faster because you had the modified work programs getting people back in

there. This will all be up for grabs, whatever may happen or may not happen under the new bill.

It doesn't do anything to improve the financial situation or the services provided to injured workers or employers. I don't see a lot of things coming out of this that's really going to go after the employers. It's been there for years and I don't know of many employers who got any more than maybe a slap on the wrist for violating the act that was there now, and it was employer-dominated by controlling the board. Now all those provisions are going to be taken out, even what was there not being enforced.

It seemed to be targeting employees all the time, not employers, that it's the employees who are committing the fraud, it's the employees who are cheating the system. Yet if you look at the hundreds of thousands of cases that are filed every year, if there is some fraud and there's just a few cases, then go after the problem, but you can't sort of rewrite it on the basis that everybody cheats. If everybody is a criminal and they're defrauding and then we have to make it back, it can't be done. Go after the exception to the rule. If there's a problem with fraud, then deal with the fraud, but don't change the whole system on the basis that everybody is guilty of cheating the system. I think that has to seriously be looked at.

We can go into a lot. We've got the submission; I think it covers a lot. You're going to hear probably a lot from the same people who come before the committee on all their concerns. We're open for questions.

Mr Christopherson: Thank you very much for your presentation, Pat. It's good to see your new union active. Everywhere I go, you're in there representing your members. I know how difficult it is to merge unions and you haven't let that get in the way of the job you're doing. You're to be commended and your staff and everyone.

1020

I wanted to draw attention to page 3, second paragraph. You advised that three times you've been writing the minister seeking a meeting to talk about the labour law changes that have been coming forward at lightning speed from this government, and you indicate that you haven't even received a response, let alone a meeting. Can you comment on that?

Ms Sullivan: In calling about Bill 7 and, coming to Bill 15, calling to have a meeting with the minister to talk about the changes and how it's going to impact our industry, we send the letters off, send the submissions; never even a response back that they received them. I think the thing that was most hard and that really angered me, at the end of the process and after Bill 7 became law, I got this very nice form letter from the minister thanking me very much for participating in the consultation process on Bill 7, and that she was quite confident that I would be very pleased with the changes that this government was coming in with.

I then fired off another letter saying what I thought of her sending out this letter. If this is what consultation is, that you send stuff in, whether it's received or not you never know, but well, thank you very much. I was really

quite offended by receiving that letter. I think it was an insult and a slap in the face for the time and energy that we put in representing our members and making submissions and asking them in for representation and to get a form letter thanking me for participating and saying that I will be pleased with the changes that come in.

That's the response I got, I guess for all the requests that I made. I became a name in a computer file that says, "When the letter goes out, send it to everybody that's on this list." That's the way they conduct things and I think it's a shame for this government to act that way. At least send a response saying: "Well, thank you very much, but we're not going to consult. We're not going to have meetings. We thank you for the document." But to send out a letter thanking me for going through the consultation process—consultation is when you consult the two parties conferring on the issue, not one side reading a document and then deciding whether you've consulted or not. I take great offence to that and that kind of action being taken.

Mr Christopherson: I wouldn't mind a copy of that correspondence.

Ms Sullivan: The letter that we sent back to the minister? I think we could probably send you one.

Mr Christopherson: Yes, and your response too, if you don't mind.

On page 7, the very last paragraph, the second-to-last sentence, you talk about the phoney crisis, referring to the finances. It's becoming a key point, notwithstanding the government's insistence on characterizing the opposing point of view as being not of concern at all. I think the difference is between whether it's recognized as a problem that needs to be dealt with or whether it's a crisis, not whether it's something that needs to be of concern at all. I would ask the government maybe to be a little more accurate in their contextualizing of this issue.

You call it a phoney crisis. Could you expand on that a little and why you see it that way as opposed to just a problem that needs to be dealt with?

Mr Eaton: I think that's a really good point. To say that the unfunded liability has put the Workers' Compensation Board on the brink of a financial crisis is ridiculous. We know that the board has over \$6 billion in assets in the bank, we know that they ran a surplus last year of \$130 million after paying \$359 million in rebates to employers, and we know that the ratio of assets to liabilities of the board is higher now than it was in 1985.

Sure, the unfunded liability is a problem. In fact the bipartite board was addressing that problem. We want to be clear: We're not saying the Workers' Compensation Board is perfect and don't change it. It has problems; it does need to be addressed. In fact, we had a royal commission that was looking at this problem in a very comprehensive way, and it was doing so in a process where we would have had input, that everyone would have had input. That was shut down, and we have this phoney crisis of being on the brink of collapse with no justification for it and using that as a pretext to ram through basically what is a wish list of what business lobby groups have been wanting to have for a long time.

I just want to touch quickly as well: This idea that somehow there's widespread, rampant worker fraud of the system—again there's just no evidence that's ever been provided to support that, and yet it's being used as a cover and a smokescreen to go after workers' benefits and to basically criminalize workers who in good faith are using the system. Workers who suffered injury deserve basic respect and fair treatment.

Mr Christopherson: I agree with you. Thanks very much.

The Vice-Chair: That does expire the 15-minute allocated time. I thank you for coming forward this morning.

Just for the committee members, a point of clarification.

Mr Baird: I just wanted to speak to Mr Christopherson's previous question. My response was completely accurate, that the WCB would develop explicit policies to define "material change in circumstances." I know there was some concern when I mentioned it to the research officer.

Mr Christopherson: If I can follow up, the specific answer to my question is that there will not be regulations per se attached to this legislation but rather the board will have the ability to develop policy that further clarifies.

Mr Baird: That's correct.

Mr Christopherson: And we're going to load up the board with all your favourite appointees, so isn't this cute.

Mr Baird: I think the reason you don't put it in the statute, in legislation, is that it could evolve over time—

Mr Christopherson: No. I'm sorry. I've sat at the cabinet table—

The Vice-Chair: Excuse me, I didn't open it for debate. I only opened it up for a point of clarification. The information passed and I think that's been given.

CANADIAN UNION OF PUBLIC EMPLOYEES,
WCB COMMITTEE

The Vice-Chair: I would ask that the representatives of Canadian Union of Public Employees come forward, William Harford as chair. Good morning and welcome to our hearing process. I would ask, for the sake of the committee members and for Hansard, that you identify yourselves.

Mr Bill Harford: Good morning, Madam Chair and board members. My name is Bill Harford. I'm the chairperson of the Ontario division of CUPE, WCB committee, and to my left is Greg Letwin, who is a member of our committee and also a worker advocate within CUPE.

As chair of the WCB committee of the Ontario division, Canadian Union of Public Employees, representing some 180,000 workers in Ontario, I am grateful to be able to take these few minutes to express our concerns regarding the proposed Bill 15 and its impact on the Workers' Compensation Board as it affects the injured worker.

I must confess that I was of the opinion that I could offer little after having heard so many speakers who are much more knowledgeable and articulate than myself. However, when I had a few moments to contemplate the words of some of the speakers, I became disturbed and felt that I had to say something no matter how insignificant or inarticulate.

The vindictive and callous attack against the injured worker left me stunned. I would not have believed the agenda of business Ontario had I not heard it for myself. The most vulnerable of all, the injured worker, seems to be but a faint concern in this whole process, and the proposed changes to be introduced through Bill 15 do nothing to help the injured worker's plight.

As a person who represents injured workers in the workplace, I could not find the common sense behind some of the changes that Bill 15 will introduce.

The removal of the bipartite board creates a level playing field in favour of business. Injured workers will not have the equal representation of the board, representation that knows the real world that injured workers are faced with and yet still is fiducially responsible to the Workers' Compensation Board.

To penalize injured workers with the loss of three days' pay for injuring themselves on the job is ludicrous. Most people I represent earn, on average, \$25,000 or less before taxes. This already is a marginal income, and to lose three days' pay places a severe hardship on the injured worker and his or her family.

One can only speculate, but we suggest that this will only force workers to use their sick-bank time while other employees will push themselves to continue working with their injury, causing further harm to themselves. Employers will begin to see an increase in the use of sick leave and long-term disability. The short-term financial relief employers will realize will result in greater expense in the long run when their employees end up on long-term injury.

It is realized that some of the Workers' Compensation Board's finances are out of control. The blame for this is placed on the backs of the injured workers in alleged abuse by them.

On the other hand, it has been recognized for years that a large number of businesses have failed to pay their fair share into the system. This is unfair to those businesses which do pay. Failure of the government to encourage the Workers' Compensation Board to track down these delinquent businesses only increases the financial hardship to those other businesses that operate in compliance with the board.

1030

Money seems to be the driving force catching the attention of business. The offer of rewards in the form of NEER does little to improve the real reduction of workplace injury. It merely promotes creative ways for less-than-scrupulous businesses to show lower rates on paper than actually occurred. Often this is at the expense of injured workers, who are intimidated and/or threatened.

This reward system for business encourages employers to have injured workers, with the promise of no loss of

pay, not file claims. This type of abuse by employers should be discouraged with some significant monetary fine or penalty.

If Bill 15 took some positive steps to get all the business players to participate and to create a system which would discourage abuse by employers, the financial situation at the board would begin to lean more towards the black-ink side of the ledger.

The proposed reduction of entitlement from 90% net income to 85% net income will penalize and place further hardship on the injured worker, whereas the reduction in assessment rewards business. This will do little to resolve the financial problems the board faces. In fact, in our opinion, this is nothing more than robbing Peter to pay Paul.

The whole concept of the proposed reduction of entitlement and assessment is nothing more than smoke and mirrors. When the smoke clears we will see that businesses have received a 5% reduction in assessment, coupled with an already generous NEER program, all to the detriment of the Workers' Compensation Board's ability to remain sustainable.

The proposed removal of recognition of soft tissue injury is a blind position of recognizing the dangers of the modern-day workplace injury. The implementation of modern-day technology has in many cases eased the burden of labour and minimized the trauma of crushed bone and tissue. But this same technology has given rise to other types of injuries, such as soft tissue injury due to repetitive action.

I am sure investors in this new technology had no intention of causing injury and never speculated on its occurrence. The fact is that it does occur, and business must recognize the fact that a worker does not have to be bleeding to be injured. This is an industrial accident of our time and must be recognized.

To ignore this type of injury will do one or all of three things: (1) force workers to continue working with pain until they have to quit; (2) it will merely require another, healthy worker to fill in the vacancy until his or her health is injured; and (3) if there is no recognition of the injury, the equipment causing the injury will continue unchanged.

Therefore, in our opinion, soft tissue injury must remain recognized because we know, as well as many industrial hygienists and ergonomists, that it is a real injury spawned in the technology of the modern workplace.

As mentioned earlier, the current Workers' Compensation Board is already a bureaucratic nightmare for the injured worker, and Bill 15 does not appear to be making the system any more user-friendly for the injured worker. This, coupled with the proposed changes, is only going to encourage injured workers to seek refuge under their sick and LTD plans or drive them, as a last resort, to social assistance. We have seen evidence of this trend already in some areas.

The shortcoming of this is that the employer will see increases in the benefit premiums levied by the insurance carrier, and no doubt so will the workers. This a no-win situation, other than for the insurance companies.

Finally, the proposed limiting or removal of WCAT is a major blow to injured workers. If you have ever had to fight tooth and nail for an entitlement, only to have it revoked, then you would understand the importance of this last resort of appeal.

Injured workers who have failed in expressing themselves adequately at an appeal have this last opportunity to present their side of the problem to a board represented by persons of business and worker interest. Should this tribunal be neutralized, without any power, then injured workers where possible will have to seek other relief, either through litigation in the courts, but most likely in the area of social assistance.

The final result will be the injured workers left destitute because the system has failed them.

In summary, I would urge that this board look at the proposed changes with a conscience to what they will mean to injured workers of this province. I ask that they give some thought to the fact that it's a Workers' Compensation Board, bought and paid for by pain and crushed bodies and the giving up of the right to sue. It is not an employers' compensation board.

Mr Jerry J. Ouellette (Oshawa): Thank you for your presentation. I have a comment and a question that I'd like you to respond to.

While I was employed at a certain location I was involved in a traffic vehicle accident. It was recommended that I go and see my doctor at that time, which I did, but to date, 15, 20 years later almost, I never informed the employer that I was actually in an accident; the doctor, while I was there, filled out the WCB forms.

As it stands right now, there is no mandatory requirement for an employee to report an incident to an employer. Do you feel that a change requiring an employee, on the day of infraction, to report to the employer would be beneficial, and how would it affect your union?

Mr Greg Letwin: Section 18 of the act says that it is not competent to forgo the right of workers' compensation, but in essence what it says is if you have a work-related injury in the workplace or in the course of employment, it is the law that you report it, both the worker and the employer.

Mr Ouellette: The point I'm trying to stress is on the day of infraction. The difficulty I'm finding in the cases we deal with is that it could be 10 days later that an injury is reported to an employer, yet the time has been reported to WCB. An employer could be penalized for that time delay there. If there was a requirement that an employee, on the day of infraction, reported it, at least the employers would have no recourse but to initiate a process there.

Mr Letwin: I find that as long as it's reported to the board, the board will not penalize the employer. Quite often the workers themselves, or through the doctor, will report to the board first.

Certainly, there must be some sort of consideration to the employer. That would be the policy of the employer. I don't think that would have anything to do with the government or the Workers' Compensation Board. That

would be an employer policy between the employer and the workers. That's something an employer should look into, if that's a problem for that particular employer.

A worker reporting to the doctor, who files a report to the board, or a worker reporting to the board has discharged the legal obligation of reporting a workplace accident to the Workers' Compensation Board. If some accidents go undetected, then that's a problem within that employer group.

I don't see where there's an issue here in what we're dealing with today.

Mr Harford: In my experience, where we do have a lot of people who drive vehicles, and we have had a number of injuries due to automobile accidents in the course, by the very fact of them showing up at the hospital, our employer already has a system that the supervisor has to go.

However, I have had incidents within my own workplace where the injury has been reported but we don't fill out the form 7 as an injured worker; we don't even fill out the accident report. We are interviewed by a supervisor, and in some cases the supervisor can't be found. This has happened several times. What does happen in a number of cases is that the report, when it finally does get around, sits on somebody's desk before it gets through. I suppose it all depends on the type of workplace one works in as to what the occasion is.

Mr Duncan: A number of the concerns you've raised are intended to be addressed by Mr Jackson's legislation next spring. Have you been invited to consult or have you been asked your opinion on any of those major changes yet, either formally or informally?

Mr Harford: No, we have not. We have not been asked directly, and I'll have to qualify that by saying, as chair of the WCB committee within the Ontario division of CUPE, I am not aware of any requests being forwarded to Sid Ryan's office, our president. I'm sure that if it had been, then Sid would have contacted myself and some of the other principals on this issue, but I'm not aware of such.

Mr Duncan: Just supplementary to that, a number of other representatives of CUPE have said the same thing, that they have not been asked for their views. Would you be willing to share those views with Minister Jackson before he brings forward his legislation?

Mr Harford: Yes, we would be most pleased to be able to do that, because I think there has to be some discussion on the issue.

1040

The Vice-Chair: Thank you very much. The time has expired.

Mr Letwin: May I make some supplementary comments?

The Vice-Chair: I'm sorry, that won't be allowed to happen at this time. We do restrict our presentations to a 15-minute question and answer. I would have appreciated the comments prior to the question and answer period, but going into that usually runs the clock out. I'm sorry, that's what's happened.

Thank you very much for coming.

Mr Arnott: I'd just like to suggest to the witness that if there are any additional comments he'd like to provide in writing to the committee, we'd certainly be interested in reviewing them.

ONTARIO PHYSIOTHERAPY ASSOCIATION

The Vice-Chair: While we're in a change here, the representatives from the Ontario Physiotherapy Association, please come forward.

The Chair (Mr Steve Gilchrist): The clerk has asked me to remind the members of the committee that in addition to the written brief from the group before us right now, we have a written brief from the Ontario Nurses' Association that will not be accompanied by oral presentation.

Good morning. I wonder if you would be kind enough to introduce yourselves to the committee members and to Hansard.

Mr Kenneth Higgs: My name is Ken Higgs and I am the president of the Ontario Physiotherapy Association and a practising physiotherapist. With me is Signe Holstein, who is the executive director of the Ontario Physiotherapy Association and also a physiotherapist.

The Ontario Physiotherapy Association is the voluntary professional association for physiotherapists in Ontario. We have about 3,500 members across the province. We welcome this opportunity to make our observations on Bill 15 to this committee. I beg the committee's indulgence. We had only one week's notice of the opportunity to appear before the committee. In voluntary associations such as ours it takes us a little time to prepare something that reflects our members' interests and concerns. This is particularly so given the flurry of government initiatives in the last several weeks affecting the health care sector in general and our profession specifically.

In considering our brief to you this morning, we ask you to bear in mind that physiotherapists, more than any other profession aside from medicine, are the major suppliers of rehabilitation assessment and treatment to WCB clients. In 1994, our members treated about 40,000 injured workers in the community clinic program and approximately 20,000 in the regular program. Physiotherapists are rehabilitation specialists, and rehabilitation of injured workers is the WCB's priority.

We intend to keep our comments brief and to focus only on four of the proposed amendments.

We are pleased with the addition of objectives 5 and 6 in the purpose section.

We see working with injured workers and employers on reducing or preventing occurrence of injury as a critical element in our role. As treating practitioners, we know as well as anyone the kinds of injuries that are occurring and why and where they're occurring. Currently, however, this role has been a missing piece in the equation. The WCB has actively discouraged us from any communication with employers. We hope this section gives the necessary incentive to the WCB to allow us to consult fully and effectively with employers and employees on workplace health and safety and on the avoidance of injury or the recurrence of injury in the

workplace. We believe this partnership will promote early and safe return to work.

Our second comment relates to section 3, and somewhat to related section 14 and subsection 161(4). To convey our position, I must give you some background.

Physiotherapists in both the community clinic and regular programs are often in the situation of providing services to WCB clients, only to have payment by the WCB refused or clawed back later because the claim has been denied on appeal or has been abandoned by the claimant.

The WCB has refused to allow physiotherapists in such situations to seek payment from the individual clients. Further, WCB policy does not allow physiotherapists to withhold or delay treatment until a claim is approved, and indeed we would not wish to do this. So individual physiotherapists are left out of pocket for services they rendered to WCB clients in good faith.

According to a recent survey of our membership, 9% of claims in the regular program and 10% of all claims in the community clinic program go unpaid due to claim denial or abandonment. I'm sure you can appreciate that especially in this economy a 10% bad debt write-off for WCB clients alone is tough for many physiotherapy clinics to sustain, especially when it's coupled with an aged WCB receivables problem. According to the same survey, an average of 60% of the WCB claims paid are paid 60 to 90 days after submission by the physiotherapy clinic.

The WCB maintains that its policy is based on statutory prohibitions. We hope that this amendment will allow the WCB to pay claims relating to physiotherapy treatments, and in the case of denials or whatever, obtain reimbursement from the worker rather than penalizing the treating physiotherapist.

Our third comment relates to the proposed amendment to subsection 56(1) that would allow the Lieutenant Governor in Council to appoint a minimum of three and a maximum of seven members to the board who are representative of workers, employers and such others as the Lieutenant Governor in Council considers appropriate. It's the "such others" that concerns us.

If this section is designed in part, as we understand it is, to authorize the appointment of health care practitioners to the WCB board, then we have two concerns.

First, we think it constitutes a conflict of interest for what amounts to supplier groups having official representation on the WCB board.

Second, we are concerned that only physicians or physician representatives might be appointed to the WCB board. We certainly have nothing against physicians, but the appointment of physicians alone would not recognize the very important role physiotherapists and others play in WCB rehabilitation and would tend to further entrench the medical model of health care delivery at the WCB.

We recognize that this is not necessarily a statutory matter, but one involving the administrative discretion of the Lieutenant Governor in Council. We only wish to make the point that the appointment power, if it is to be used at all, should be used to have representation on the

board that reflects the range of the health care professions that provide the burden of service to WCB clients, and that of course includes physiotherapy, not just medicine.

Our last concern relates to section 14 of Bill 15 and the proposal for value-for-money audits. The Ontario Physiotherapy Association and the physiotherapy profession support evidence-based practice and welcome objective reviews of the cost-effectiveness of any WCB program in which physiotherapy is involved.

Having said that, we aren't really sure how the new section 77 would work. As we understand it, the minister would determine the program to be reviewed and the review would be undertaken by the Provincial Auditor. But what is the role of the board, to quote from the bill, in "ensuring that the review is performed"? For example, does this mean the board sets the terms of reference for the review? If so, this could provide a means by which the WCB subverts or detours the minister's intentions for the review. Furthermore, are the results of the review to be made public? We certainly hope so, and urge that this be added as a statutory requirement.

If the reviews, once completed, are held by the WCB or even by the minister, they will not contribute to the body of evidence-based practice, nor will stakeholders have any confidence that the results or recommendations are being interpreted or implemented properly.

Finally, we really wonder why licensed public accountants, and licensed public accountants alone, are designated to perform the audits. What do public accountants know about rehabilitation, or ergonomics, work conditioning, functional capacity or fitness for work?

1050

We know that at the federal level, in the conduct of value-for-money audits, the Auditor General of Canada can and does draw on whatever specialized expertise the circumstances of the audit require. When doing a value-for-money audit of the CBC, he brings in people knowledgeable in broadcasting. When doing a value-for-money audit of a department, he brings in people knowledgeable about the programs delivered by that department.

Rehabilitation of injured workers is not simply a numbers game. It involves an understanding of a complex of methodologies and conditions, of a body of clinical research and a range of treatments. It involves variables such as practitioner judgement, patient choice and patient initiative and commitment. It involves the development of a consensus on returning the worker to gainful employment.

In our view, an appropriate value-for-money audit of any WCB rehabilitation program would not focus on the quickest return to work for the least expenditure. An appropriate value-for-money audit would focus on whether the most appropriate treatment was given in the most cost-effective manner. This is where specialized expertise in rehabilitation treatments and outcome measures would be essential.

We strongly urge, therefore, that proposed subsection 77(4) be amended by the addition, after "public accountants who are licensed under the Public Accountancy Act," of the phrase "and such other experts or specialists as may be required."

Thank you for the opportunity to come and speak to you today. We'd like to entertain any questions that the committee may have.

The Chair: Thank you, Mr Higgs. The questioning will begin this round with the official opposition.

Mr Pat Hoy (Essex-Kent): You didn't specifically address this in your brief, but with the rotation being the way it is, I have an opportunity to finally have a chance to ask someone who I think may have some valuable information.

We've had people make submissions here talking about workplace technology and the incidence of repetitive motion problems. Would you agree that the new technology of the 1990s, as we head into the year 2000, is creating a higher incidence of repetitive motion strains and other problems?

Mr Higgs: In my opinion, yes. A good example created by computer technology alone is the injuries we see from keyboarding alone. Yes, I would definitely say that in my experience that is the case, that we're seeing more of them. Maybe it's a recognition thing too, that as more research is done on it, we start to identify the signs a little bit earlier.

Mr Hoy: I have one supplementary to this. You've stated that in your opinion there is more repetitive motion illness, and you're touching on it now. My other question would be, is the medical technology advancing enough to conclusively show that it is repetitive motion related and indeed occurring in one's, let's for example say, wrist?

Mr Higgs: There are lots of research studies being done. I'm not sure how far along they are in terms of actually proving some of the theories that are out there. There needs to be more research done, definitely. I think that's what you're getting at, that we need to produce the evidence that there actually is a relationship between the cumulative trauma injuries that are being claimed and actual fact. That's what you're saying, I believe. I agree that more research needs to be done to firmly establish that link.

Mr Christopherson: I don't have any particular questions on the submission you've made, the issues, because they're fairly clear and straightforward, given the way you've so articulately presented them. But I did want to ask you with regard to your profession—we know that carpal tunnel syndrome and repetitive strain injury and other things are relatively new on the scene in terms of the decades of industrialization that we've seen. Could you just give me a sense of what you also see in the future that either is just beginning to emerge or areas that you expect will, or do you think that we've sort of seen the horizon that we'll be looking at for the next couple of decades? Your thoughts on that, please.

Mr Higgs: I think there will be just as many problems caused by sedentary work habits as perhaps there were by overexertion. As technology improves, people are tending to become more sedentary; they sit more. From a personal perspective, I find sitting more difficult than anything else I do, and that's what I do most of the time now, is sit. Certainly with back problems, sitting creates just as many back problems as does heavy manual labour in many cases.

I think we will continue to see an increase in the incidence of back problems with the way things are going and certainly repetitive strain, upper extremity problems related to keyboarding. There may actually be a dropoff in some of the other injuries that we used to see because of more knowledge in terms of correct lifting techniques and the improvements with devices to assist workers to not have to lift huge amounts of weight. I'm not sure if that answers your question, but that's the way I see it.

Mr Christopherson: Yes, that's very helpful. That's what I was seeking.

The Chair: We've used up our 15 minutes. Thank you very much for taking the time to make your presentation before us today. We appreciate your coming in.

RETAIL WHOLESALE CANADA—USWA

The Chair: Our 11 o'clock group apparently is having mechanical problems somewhere on Highway 401, so we'll proceed now with the group that was slated after them, Retail Wholesale Canada-USWA. Good morning.

Mr Dave McCormick: Good morning. I'm Dave McCormick. I'm with Retail Wholesale Canada, the Canadian service sector division of the United Steelworkers of America, which in itself is a mouthful.

Our position on this bill is quite clear: We are opposed to it and we would just like to see it withdrawn. For your information, we've also submitted a copy of a letter sent to Elizabeth Witmer, dated September 19, 1995, which we haven't got a response to and which we really didn't particularly expect to get a response to, either. Quite clearly, it's our position this government has no concern for working people of this province and is intent on hurting those who are most vulnerable. We also are of the opinion that the government will not listen to anything that's being presented during these committee meetings.

It seems to us that what the government's going to do is to try and attack section 73 of the act, which states that claims are judged on a real-merit basis; that what you're going to do is change the system to a system that simply reduces employers' costs at the expense of disposable human beings.

What I want to talk to you about is the real cost of the compensation system, and it doesn't deal with dollars and cents; it deals with human misery, with suffering and with pain. It deals with poverty among injured workers, and I can tell you this is the worst time of the year for me, because right now when I go back to the office I am going to have clients calling me asking how they're going to put groceries on their table at Christmastime, much less presents underneath their trees for children.

What I want to do is to go through this so-called bill. I'll start off with the purpose clause where it says, "The purpose of this act is to accomplish the following in a financially responsible and accountable manner..."

If you're going to do that, then why don't you look at the costs of experience rating and SIEF and their effect on the system? Why did you turn around and disband the Workplace Health and Safety Agency, something that is a proven success story? Why are you turning around now and taking the bipartite board and destroying it as well,

something that the previous government, through insight and through consultation, enplaced?

You talk about overpayments of workers and you talk about criminalizing workers. I don't hear you going after employers in the same terms. As a worker representative I can tell you I have claims in front of the board right now where injured workers were coerced into going on to long-term disability benefits prior to this legislation and we're now trying to redress that problem.

1100

You're saying that the worker should notify the board of any changes in his circumstances. I can tell you, a lot of the people I deal with have English as their second language and they're going to have a problem understanding that they have to notify the board of any changes in their circumstances.

"The board of directors shall act in a financially responsible and accountable manner in exercising its powers and performing its duties." Wasn't that the purpose of bipartism to start off with? Wasn't it there because of the fact that government messed it up for the last 20 years and then finally turned around and said, "Let's put the people in charge who can do something about it"?

It worked for the Workplace Health and Safety Agency. It certainly isn't going to work under your new system. What you're going to do is put insurance company executives in there and turn this into a for-profit system. Well, workers gave up their right to sue. It's not something that was handed to us out of the goodness of their hearts. We gave up our right to sue for a fair and equitable system, not a Tory-run agenda.

The only other thing I'd really like to talk about is this penalizing workers \$25,000 and throwing them into the same category as employers. I've dealt with injured workers now for the last three years and I have not come across one injured worker trying to abuse the system. I have heard workers turn around and talk about the fact that they only want what they're entitled to for a workplace injury. I haven't come across one case of dishonesty—not one—and it's there because the system that's in place right now works.

Before a worker is entitled to benefits, there's three steps he's going to go through: He's going to notify his employer; he's going to have a medical opinion; and he's going to have a report of accident that he has to submit himself. These three things all have to correlate before the board pays a dime. That's why we don't have worker abuse and we don't have worker fraud.

What we do have is we have employers out there, some 20,000 of them, who are not paying into the system. We have banks going for a free ride because they're exempt, yet the same worker who goes out there and gets a loan is paying back that loan from his compensation benefits, and I see no reason why they're excluded. They have workers too and their workers are suffering.

If you want to take a look at where the system is and you want to look at employer abuse, then fine, but don't go blaming the guy who's already hurt on the job,

because when he can't walk his daughter down the aisle without taking pain medication, he's paid his price. When I speak to a young worker who can no longer have children because of a workplace accident, she's paid her price. When I deal with a man who can't shake your hand with either hand, then he's paid his price.

This legislation that you've put in front of these people of the province of Ontario is disgusting and should be withdrawn. If you have any questions, feel free.

Mr Christopherson: Thank you for your passionate submission. I certainly share those feelings when we look at it from the point of view of the workers and how this legislation's going to affect them and the intent of this bill to make them secondary to the financial considerations that the government seems to be more concerned about.

I want to ask you a little bit about the bipartite board. We've heard submissions from employer groups suggesting that this is a system that won't work. You point to the Workplace Health and Safety Agency as an example of how it can work. They point to that same agency as an example of why it can't work.

I wonder if you could give us your thoughts on why you think it's so important for workers in terms of health and safety and WCB to have an equal say in the decision-making. Why is that so important to the people you represent?

Mr McCormick: First we'll take a look at the statistics from the 1994 annual report. If you take a look at the number of registered claims in 1994, it's 370,000, and the number of claims in 1990 is 473,000. You've got a 100,000-plus claim reduction. You also take a look at your lost-time claims, which were reduced by one third over that period of time.

That's something that went through because of workers knowing what their rights are, workers learning how to work safely and workers being able to participate in the workplace process of how a job is being done. They're rights that we are entitled to, rights that we had and rights that are being stripped. That can't be done if the employer is turning around and saying to you, "You're going to do what I say, because we have complete control." That's what happens when you don't have something with an equal voice and equal say.

From the retail sector, where I come from, there has been more health and safety training through the certification program that was in place through the agency in the last year than employers did in its entirety in the last 15 years. That's why it's working.

In terms of compensation, yes, workers know what's going on within the board. They're the ones who are feeling the system, and they have a right to at least have their point of view heard in decisions that are going to be made that affect everyone.

Mr Christopherson: The government is suggesting that by having workers represented even in a minority position on their new board workers will get their say. We, of course, in our previous legislation believed that workers shouldn't just have a voice but ought to have an equal say in the decision-making. Do you think that

workers will be losing something by moving from an equal say in the decision-making to merely being one of numerous voices on a new board?

Mr McCormick: Yes, they are. They're going to lose a lot. It's a lot similar to the way this committee here works. There are individuals here who have concerns about what's going on, but there's a government out there that's not going to listen to what you say when you bring it back in front of the Legislature. They're going to simply use their numbers to override you and throw out anything that has to do with workers' rights. That's the same thing that's going to happen under your new board.

Mr Arnott: Mr McCormick, thank you very much for coming in. Your concerns are noted, I think, by the government side. I thought I heard you say that there's no fraud within the system at all.

Mr McCormick: I can't say there's no fraud. I can say that in the last three years I have not met with one case of worker fraud, and I represent some 300 workers a year.

Mr Arnott: It's my belief there's significant fraud within the system, injured workers and also employers perhaps, and we've got to root out the fraud if we can. It's my recollection that when this committee dealt with workers' compensation issues two or three years ago, the former chairman of the WCB, Odoardo Di Santo, was sitting where you are today and suggested—again if my recollection is correct—that the fraud might be in the neighbourhood of \$150 million a year, which is a major problem, and the government is attempting to come to grips with it.

We do have a significant unfunded liability problem, which I'm sure you recognize, which, in our belief, jeopardizes the long-term ability of the system to pay injured workers. I don't know if you've got any suggestions for us as to how we would deal with that problem, but it's one that I feel is very significant.

Mr McCormick: On the unfunded liability, to start off with, for years the employers' position was that they did not want a fully funded system. "Unfunded liability" means if I am injured today that you have the money in that system to cover me until I'm 65 or until I die, whatever happens to come first. Do you want a system that says now, for every workplace injury that ever occurs employers should fully fund that system, or should that money not be spent better on the economy, allowing the employer to at least invest and work with that money? That's the position that labour has come from. Your assets, I believe, are greater now in percentage than they were 10 years ago as to the actual funding of the system. The unfunded liability, to me, is just a hoax system. I don't think employers want a fully funded system.

From a worker's perspective, I certainly wouldn't want my employer having to pay out every dime and possibly take a chance of going bankrupt at the time of my injury. I'd hope they're solvent enough that over the course of the next 20 years they can pay that as they would have my wages. So I really have concerns with that.

In terms of what you're talking about with fraud, there's fraud within any system. The reality is, though,

that there are more checks and balances within the compensation system than we have in any other sort of system out there. I can't say whether there's \$150 million or there's \$50 million or whatever figure. I don't have that information in front of me.

I can tell you from personal experience I have not found workers cheating the system. If anything, I have come across claims that have been denied because workers have been too honest and given too much information rather than the other way. We've had to go back and at least get this straightened out as to, "What did you mean by this when you told that to the board?" and not the other way around. I haven't found that with workers yet.

1110

Mr Duncan: It's probably not a fair question to ask, because I only had a chance to glance at your issues. First of all, in terms of a lot of your concerns today, again, Mr Jackson is scheduled to deal with them in the spring. I'm curious to know whether you have been invited to make any kind of representation or participate in any consultations with respect to those very substantial amendments that the government intends to bring forward.

Mr McCormick: I'd like to thank you for that opportunity. We have not been invited to date. I got notice of this presentation on Friday of last week, that we were given an opportunity to speak, with the date of, "Did you want Monday or Wednesday?" I would certainly hope that when the Jackson report comes out, at least there's an opportunity for full public hearings and not these last-minute, "Maybe we can appease people" type of decisions.

Mr Duncan: I would assume, if I can, by way of supplementary, that you would perhaps want to be consulted prior to any report coming out.

Mr McCormick: Quite frankly, with this government, I don't know if it would do any good. I think this government's going to simply go ahead and do what they want anyhow and they're not going to listen. It's just a paper shuffle with this government in terms of consultation.

The Chair: With that, our 15 minutes are up. We appreciate your taking the time to make your presentation today and leaving us your correspondence.

SOUTH LAKE SIMCOE ASSOCIATION FOR INJURED WORKERS

The Chair: We'll move on now to the South Lake Simcoe Association for Injured Workers.

Mr David Stephenson: Thank you for having me here today. This box beside me which I had intended on unloading and putting up here on the table is a single case that went to WCAT in 1994. I brought it in as a visual aid to show you how much work goes into a case. This case was won, and it cost the board over \$70,000 to win this case, not counting the printing of these transcripts, mailing of them etc.

I'm not going to speak against this particular government. I'm speaking against the bill for the following reasons.

First, I'd like to deal with occupational health and safety. Any amendment to this act can only be an improvement. This act could only get worse if there were no act at all.

According to the Minister of Labour's facts and figures, 1992-93, health and safety policy branch, policy and analysis unit, released November 1993, which covered the years of 1987 through to 1993, this booklet clearly shows some very frightening and at the same time interesting facts. You can get this booklet from the Minister of Labour's office.

In 1987, there were 321 government health and safety inspectors. By 1993, there were only 279. This is minus 42 inspectors, or minus 13%.

As a direct result of there being minus 42 inspectors, there were 27,541 fewer inspections and 14,190 less orders to make the workplace safer.

There were minus 2,105 stop-work orders.

There were 207 less fines. That's minus 177 from the previous years, or 74%.

Prosecuted cases fell from 510 in 1988 to 159 in 1993. That is a minus of 351 cases, or minus 69%.

Work-related fatalities rose from 258 to 275 in the one-year period of 1992-93. Seventeen more workers died, or plus 7%.

This all happened in a recession when the workforce was down more than 100,000 workers; 1993 made 1987 look like the good old days when it came to health and safety in the workplace. What I find interesting is the fact that when the workplace became the darkest and the most dangerous was in a time when the government was labour-oriented.

Now I'd like to speak on the WCB.

The Monthly Monitor is a free magazine that anybody can get by simply writing in to the Workers' Compensation Board. I have a copy of the document here, but it's actually put out by the board, so I'm using their own figures. Did you know that according to the Monthly Monitor, in 1990, 19 or 14.7% of workers who died at work were not allowed "immediate death"? And 129 workers died that year. In 1994, 30 or 31.6% were not allowed to die. In 1995, by the end of July, 16 workers who died on the job were not allowed to die.

These numbers do not include workers who didn't die on the spot. If a worker took several hours or several days to die, he or she may very well find themselves among the five in 1994 who were and still are not allowed to die.

Some 237 workers died of fatal workplace diseases in 1994, and 131 or 55.3% were not allowed.

In 1990, 2.3% of all claims were denied, and even though the workforce fell by well over 100,000 workers in the years since 1990, every year more and more claims were denied: in 1991, 2.6%; in 1992, 3.2%; in 1993, 3.5%; in 1994, 3.7%; and as of the end of July 1995, 3% of all claims have been denied.

All this even though the total reported claims fell from 479,731 in 1990 to 374,243 in 1994. These figures as reported from the WCB itself clearly show that something

is very wrong with the WCB, for the WCB is a no-fault social protection agency whose job is to protect the accident employer from getting sued and, most importantly, look after the injured worker. That is why it is called the Workers' Compensation Board. Any government that is elected to look after and help protect the very people who elected it should act swiftly to make amendments to the Workers' Compensation Act.

One has to look no further than the report of the chairman's task force on service delivery and vocational rehabilitation of July 1992. This report clearly defines the many problems both internal and external. What it says over and over again is that the WCB must be accountable. Until the WCB is accountable there will be many, many problems and it will be expensive to all concerned.

All the players will be affected one way or another. Today, as you can see, I took the liberty of bringing the file of an injured worker that I successfully represented at a WCAT. That is the Workers' Compensation Appeals Tribunal, for those who may not know. It was a long fight but the injured worker found justice in the end, and I can tell you here today that it became very expensive for the WCB. They paid this injured worker more than \$70,000, including interest on moneys owed. And that doesn't even touch the many, many hours, paid man-hours, for board workers who filled out the thousands of form letters and reports, nor does it include postage and other incidentals.

Why doesn't the WCB work? Look no further than articles 69 and 70 of the act. Article 69 deals with general jurisdiction of the board, and what does it say? It says in part:

"Except as provided by this act, the board has exclusive jurisdiction to examine into, hear and determine all matters and questions arising under this part and as to any matter or thing in respect of which any power, authority or discretion is conferred upon the board, and the action or decision of the board thereon is final and conclusive and is not open to question or review in any court and no proceeding by or before the board shall be restrained by injunction, prohibition or other...procedure in any court or be removable by application for judicial review or otherwise into any court. RSO 1980, c 539, s 75."

1120

Section 70 of the act is the power to reconsider:

"The board may, at any time if it considers it advisable to do so, reconsider any decision, order, declaration or ruling made by it and vary, amend or revoke such decision, order, declaration or ruling. RSO 1980, c 539, s 76."

These are direct quotes from the act. I have the act here today.

In a nutshell, what the board is saying is that it can do whatever it wants whenever it wants to and that even the courts can't stop it. I don't believe for a minute that any government institution can put itself above the law, and the fact that it has not been challenged in a court of law by one of the legal clinics shows that we still have a long

way to go, the point being that the WCB thinks it can do whatever it wants, whenever it wants to, and that it is not accountable to anyone. This must change. Taking sections 69 and 70 out of the act will be an awakening and a small step in the right direction.

What's needed before any major changes occur is dialogue between business, large and small, the injured workers' movement that represents the majority of injured workers, and the unions, who we know represent 31% of the workforce in Ontario. That's according to Statistics Canada.

Lastly, we could do what Australia, Belgium, Cyprus, France, West Germany, Spain, the United Kingdom, Japan, Italy and the Netherlands have already done and already found works. It's called the quota system. It's quite simple. It quite simply is a quota, that companies must hire so many injured or disabled workers, and the quota is from 2% to 6% of the workforce, depending on the country.

Those that hire more get a credit; those that don't, including the government itself, pay a fine. Some amounts of money collected because of fines, in Canadian currency, are: West Germany, in a single year, \$122 million; Japan, \$24.9 million. In 1989, West German companies, including their government, paid, as I've already stated, about \$122 million in fines. The fine money goes to finance an impressive array of rehabilitation and training services. This quota system has been in some of the countries for over 40 years.

There are those who will tell you that there are too many employers and that it will be impossible to enforce such laws. That's like saying that unless every single person who exceeds the speed limit is stopped and prosecuted, a speed limit cannot work.

West Germany has twice the population of Canada, and their money is half as valuable as ours. I mention this only to show that we could generate enough money with the quota system to pay all the costs of rehabilitation and the cost to pensions of injured workers who cannot go back to work.

Let's remember the dignity of the injured worker when we start out to change the WCB, and the impact that such changes have on their families and the community at large.

Mrs Barbara Fisher (Bruce): I do appreciate your presentation this morning, and sometimes it's refreshing for us to have the opportunity of dealing with a person and not an organization. I appreciate that and I understand the amount of work it must have taken to put it together.

What specifically do you see in the bill that is before you today that you would highlight as your priority areas for repair? If the bill before you today is not what you agree with or can support, can you give us some specifics?

Mr Stephenson: Yes, I thought I said earlier I spoke in opposition to the bill. There is absolutely nothing in the bill that I see that's constructive, absolutely nothing at all. In fact, the only thing that even looks good is in

the beginning where it says under Purpose it's to protect the injured worker etc, etc. That's already in the act and it's not working now and it's not going to work if we put it in there one more time.

Mrs Fisher: What specifically do you recommend? I hear that you don't like it, but I'm not hearing what the solution is. If we're not right, what is right?

Mr Stephenson: I mentioned the chairman's task force report put out by the government at the time in 1992, and it's extensive; you can get it. It was done internally with the board and externally with people such as myself and lawyers and other agencies, and they define what the problems are. The problem with the WCB is that it's not accountable. The chairman's task force report says it must be accountable.

There isn't any other organization in this province that's not accountable. Even the police force is accountable. The ladies and gentlemen in this room are accountable. But the board, under 69 and 70 of the act, are not accountable. The chairman's task force document—I have it here—states over and over again, and as well from board employees; it was done internally. It's the same message, whether it's from the inside or the outside, that the board must be accountable. It looks like this.

The facts and figures I gave you I got from the Minister of Labour's office, and the booklet looks like this. You guys will have an easier time getting it. It took me about six months to get it, and I knew what I was after. But you can see I used it.

The changes to the act now, none of them are any good. You have to think about it. The act itself is about 125 pages and it's half in English and half in French, so in reality we're only really talking about—give it 70 pages. Now the policy manual is an internal manual that the board has and it's how it interprets the act. The policy manual is 635 pages and they're all in English, so if you have an organization that takes 635 pages to interpret 70 pages, you've got a problem.

Many of the divisions at the board have four or five people to look at your case. They have a case worker, an adjudicator, a claims adjudicator and a voc rehab, and on and on. If you put 10 people in a room with a problem you're going to have a really hard time getting all 10 people to agree on the same solution, and that's the problem with the board. It's not accountable. It's overstaffed in many areas, and areas where it should have more staff it doesn't. For example, the case workers themselves are under a heavy caseload. I process about 800 cases a year with our group, and I know. Everything's just a blur after a while. I would suggest no more than 150 cases per case worker and that the case worker would see the case—this is very important—from the beginning to the end, because they don't get to see the end results, so they just race up and down.

The Chair: I'm afraid, Mr Stephenson, we've actually run a bit overtime, but we do appreciate your taking the time and the trouble to have prepared that and to bring it down. I'm sure we'll have opportunities to discuss the other aspects of WCB, and we appreciate your making submissions here today.

1130

CANADIAN AUTO WORKERS, LOCAL 4457

The Chair: Our next group up today is the Canadian Auto Workers, Local 4457. Good morning.

Ms Patty Harrington: Good morning. I'd like to begin by stating that I disagree with the Ontario government illegally firing the bipartite Workers' Compensation Board of directors and the bipartite board of the Workplace Health and Safety Agency, and then, after the fact, including Bill 15's retroactive legal protection for the government on this action.

The introduction of this bill sets the tone of the government to continue their attack on the most vulnerable people in Ontario. This whole agenda is about excluding the workers from having a say and setting the agenda in the workplace. That includes the Workplace Health and Safety Agency, the Workers' Health and Safety Centre and advisory boards for setting workplace standards.

Let me start by talking about the Workers' Compensation Board. Through Bill 15, the government claims to be responding to the unfunded liability "crisis."

The unfunded liability is not a debt. It includes premiums and pensions that would have to be paid out over a number of years. Revenues through WCB premiums would still be received to fund these future payments. To say the unfunded liability is a lie is not accurate, but to put it in a crisis context is irresponsible.

Bill 15 also sends a message that workers are defrauding the system, therefore responsible for the financial situation at the board. This is simply not true. This government treats workers as if they have behavioural problems when in reality they suffer injuries, illnesses and sometimes eventually death.

The WCB is not broke. It has more than \$6 billion in assets. In 1994 it paid out more in rebates—\$359 million—to employers than it imposed in penalties and made a declared surplus of \$130 million.

There are 55,000 employers who currently owe around \$430 million in unpaid assessments and penalties and 20,000 employers who haven't bothered to register with the WCB. There are also the workers who are not covered by compensation, ie, the financial institutions, insurance companies and doctors' offices, to name a few. These companies should be contributing and those owing should be forced to pay up.

The WCB already has the tools in place to deal with the small amount of worker fraud. There is no need for a whole new set of offences to target workers.

What is the Harris government planning to do to the injured workers? It wants to impose a three-day waiting period for WCB benefits; cut benefits by 5% or more; eliminate through review lifetime pensions awarded before 1990; eliminate compensation for specific injuries such as back and repetitive strain, chronic pain and stress, and reduce future economic loss awards by up to 40% for injuries after 1990. In the meantime, the employers' premiums will be reduced by 5%.

This bill also fires all the labour representatives on the Workers' Compensation Board of directors.

The focus of the purpose clause should be on providing injured workers with benefits and services and return-to-work programs, yet the first sentence of this clause unnecessarily places a duty for further financial accountability.

This bill proposes a new structure, with no commitment to include equal representation or an injured worker on the board. Workers should be entitled to have equal representation on the board.

I oppose Bill 15 and demand it be withdrawn and call for full benefits and services for all injured workers, including return-to-work programs to be restored; the restoration of the bipartite board of directors, including worker representation; an independent WCB, governed jointly by the workplace parties.

Now I would like to speak on health and safety issues. Workers need strong health and safety laws and the right to compensation to protect themselves.

An estimated 6,000 workers die of occupational disease in this province each year, and thousands suffer from work-related diseases. Not all deaths and injuries are recognized as work-related, and many, causing needless pain and suffering to these workers and their families, could have been prevented.

Unless the government strengthens the health and safety legislation, more workers will get sick and be killed. As with any other law, there has to be enforcement and a penalty levied on those who break the law.

Equally important to enforcement is that workers be allowed to participate in the development and delivery of preventive health and safety training. Employer groups are lobbying this government to censor worker input by completely withdrawing funding from the Workers' Health and Safety Centre. They are falsely claiming that WCB funding is employer-contributed. I have participated in several sets of negotiations and employers have calculated the wage package based on hourly wage, benefit cost and WCB costs. You then have to compete with the shareholders' demand for profit for any wage gains.

This clearly demonstrates that WCB funds are 100% worker-funded. To deny workers any say in compensation decisions and health and safety training is nothing short of censorship.

I repeat, I urge you to restore the bipartite board of directors of the WCB, I urge you to restore the bipartite board of the Workplace Health and Safety Agency and I further demand you continue to adequately fund the Workers' Health and Safety Centre.

Therefore, I oppose Bill 15 and demand it be withdrawn, that health and safety laws be strengthened and enforced and that workers are recognized as major stakeholders for issues concerning health and safety in the workplace.

I would like to express how glad I am for this opportunity to speak to this standing committee.

Mr Jean-Marc Lalonde (Prescott and Russell): On page 3, you referred to "providing injured workers with benefits and services and return-to-work programs." Did you want to refer to vocational rehab programs in this

case? I would like to know what your view is on 50-and-older people when at the present time they are referred to rehab programs by going back to school. What is your position on this?

Ms Harrington: If you're injured and you're 50 years old and you get retraining and going back to school, it doesn't mean that you're going to get a job. It doesn't mean you're going to get even a full-time job and be able to afford to live any more. Then if you're hurt and you have to buy drugs and you're not covered for that, it's an even further debt on your shoulders.

Mr Duncan: You are referencing the unfair treatment from your perspective with respect to offences, so-called fraud committed by workers versus employers. I received some information from the board this morning that says that maximum fines are never levied for provincial offences against employers and that an employer would have to be convicted several times.

The highest fine ever against an employer was \$2,000 and most are approximately \$1,000, and on average there are two to four convictions per year—two to four convictions per year—and the board doesn't keep track of how many actual investigations there are. I wonder if you could comment on that, particularly relative to the fact that some of the provisions in Bill 15 are so onerous against workers. I'd like to hear your views a little bit more on that.

Ms Harrington: Some of this is hard to understand. I do try to represent injured workers, but there's the part in there about the 10-day—if you have to make a change—just let me find that.

Mr Duncan: The definition of material change, section 22.1. The worker sections are section 22.1 and subsection 161(2), which deal with the notion of material change. Subsection 161(2) is the offence provision under the new part V. Do you think that's quite onerous on workers relative to the kinds of burdens that are placed on employers?

Ms Harrington: Yes. It's not clear and I really don't know what it means. Does it mean if I forget to make a notice of a change in 10 days I'm going to get a fine, you know, be put in jail or something like that? People are going to be afraid to witness an accident because what if they report something wrong? It deals with intimidation tactics against the workers. Yes, you said that only a couple of the employers are ever fined.

1140

Mr Christopherson: Thank you very much for your presentation. You refer a few times to the irresponsibility of the government to refer to the unfunded liability as a crisis. Some of the unions that have come forward have suggested that one of the revenue and expenditure problems is the whole experience rating system. I wonder if you've had any experience with that yourself at all. You're not familiar with it?

Ms Harrington: No. Maybe if you could explain a bit.

Mr Christopherson: No, that's fine.

What I would like to do, then, is move to the bipartite board structure. As you know, right now the board has

equal representation between employers and employees. The government feels that this is no longer acceptable and it is going to reduce the employee representation to a minority position on the board. A number of unions have felt that this is going to be detrimental to workers because they've lost that 50% say in the decision-making. Can you share with us your thoughts on that?

Ms Harrington: I think it's very important that injured workers are included in the say because the other way, if it ends up with insurance companies or somebody that's not even a stakeholder in this saying what they think should go in, it's not fair. You need to have workers saying what their responsibility is and maybe they can help bring light to the problems that are on the board. Without that, it's going to be maybe people who don't know, they're not sure of what they're talking about, putting input in that makes decisions for thousands of injured workers.

Mr Ernie Hardeman (Oxford): I was just going through page 4, near the bottom. "They are falsely claiming WCB funding is employer-contributed. I have participated in several sets of negotiations and" realize that this is part of the wage package. I would totally agree with that, that in fact the cost of doing business to an employer is the total cost of labour as it relates to the product.

Why is it, then, on page 3, that "In the meantime, employers' premiums will be reduced by 5%"? Would that not fall into the same category, that in the process of negotiation this will in fact reduce the cost of the product, that the contribution is a total reduction? If it's totally employee-contributed in the first place, is that not a reduction to the employee?

Ms Harrington: I think this money they're going to save, the 5%, plus all the other savings they're going to get on the people who are not going to be covered, the loss of stress, chronic pain, back injuries, future economic loss awards, is the money that's going to go back to the shareholders. It's going to be bigger profits, and no, it won't be passed on to us.

Mr Hardeman: But when you negotiated the contract, including the cost of compensation as part of the cost in the package, when that cost is less, would that not automatically mean in your next negotiations that you would be able to negotiate that back into it as part of the employees' package?

Ms Harrington: That's part of the whole picture in negotiations. There's only so much money, right? If it goes to your work boots or your holidays or wherever it's getting divided up, I believe that money will still go back to the shareholders. It'll be bigger profits for the corporations.

The Chair: We've now reached the end of our 15 minutes. We appreciate you taking the time to come in and make presentations to us today.

CANADIAN AUTO WORKERS, LOCAL 303

The Chair: Our next group up will be the Canadian Auto Workers, Local 303. Good morning, gentlemen. I wonder if you'd be kind enough to introduce yourselves to the committee and to Hansard.

Mr John Sommerville: My name is John Sommerville. I'm the chairman of the WCB committee for CAW Local 303. My colleague is Rob Wiersma, who is a WCB rep as well.

Our local usually submits a written brief to the royal commissions and there are, in the records of the Parliament, several of our briefs which speak precisely to various issues that we think should be corrected in the workers' compensation system.

However, this morning I felt it was more useful to attempt to shed some light on what is the perception of people who are involved directly in the compensation appeals process and who deal with the system on a day-to-day basis, in the hope that we might be able to ward off what appears to be a disastrous possibility for the injured workers we represent and injured workers in general in the province of Ontario.

My understanding of the proposed changes of the present government include certain key elements that our senior groups like the CAW national office and the Ontario Federation of Labour have addressed in specific terms. I would like to speak to some specific issues. I notice that the focus of the government is an effort to try and pay down or eliminate what is called the unfunded liability. For the record, the workers' compensation system has not always been a victim of unfunded liability. It's a relatively recent development, actually.

The development of the unfunded liability, as I understand it from my reading of both board documents and the general history, actually dates back to some time in the 1980s. Prior to that, the liability of the Workers' Compensation Board was in fact being covered more or less by collecting premiums from employers around the province of Ontario. What happened in the 1980s was that the board, for its own reasons, some of which we would have to assume were political in origin, decided to give employers a bit of a holiday on the premium rates that they had to pay. That holiday resulted in the biggest portion of the unfunded liability.

The other element that I understand caused some of the unfunded liability had to do with some relatively unwise investments made in European principalities that resulted in large losses.

It is absolutely unacceptable to any reasonable citizen to have those burdens transferred on to the backs of injured working people in the province of Ontario.

I'd like to specifically address these remarks to the Conservative members of Parliament who are present here today. The Conservative Party has a very long and dynamic history in the province of Ontario. They ruled in an uninterrupted way for 40 years, during which time they very much were involved in the administration of a Workers' Compensation Act which has a history. That history goes back to around 1911. At that time, a deal was struck. It was a historic deal. The deal was that injured workers would surrender the right to sue their employers in court for damages for neglect, in lieu of which they were to receive compensation benefits that were to be paid in a "non-adversarial environment."

What I see happening and what I fear is going to happen if the changes that are proposed are put in place

is that workers will be put into a system where that historic deal, which, because the Conservatives ruled the province of Ontario for 40 uninterrupted years, they bought into for at least 40 years in recent history, is going to be broken.

One of my questions, and it's a rhetorical question, is, for the three-day period that workers would be obliged to wait prior to receiving compensation benefits, will their right to sue their employers for neglect or negligence be restored?

The other question I would like to raise to the whole panel for all of your considerations: The last time I checked, injured workers pay 100% of the price for a loaf of bread or a pound of meat or five pounds of potatoes. Because a worker gets injured, he doesn't automatically get a cheaper mortgage, cheaper car payments or cheaper anything else. Why on earth would it be reasonable, rational or acceptable to any humane body to suspect that a working person injured through no fault of his own would be placed in a position to receive, not 95% of his net, which approximately works out to his wages since it's untaxed—an 85% payment does not produce that result.

1150

So please, ladies and gentlemen, consider that the people you're talking about here are your constituents. They are regular taxpayer-citizens. In addition to that, almost 100% of the money they get gets distributed to merchants, bankers and other people with whom some of you may have a closer relationship than I do.

Additionally, I also heard some discussion that you were interested in ending fraud, stopping the cheaters. Believe me, as a taxpayer and a citizen and a person who is an advocate in the compensation system, I too am very anxious to bring an end to any fraud. If somebody were to ask me, "Is there fraud among injured workers?" I would have to admit, yes, there is. It is relatively small; it is certainly, in terms of monetary importance, relatively unimportant.

The important areas of fraud are in the underground economy. Many, many construction firms working in the fair city of Toronto and around the province of Ontario employ workers outside the system. They pay no premiums, and there is absolutely no mechanism to enforce the payment of premiums by those companies.

There are people at the board who are employed as investigators, whose primary function is to investigate claimants. They go out and they do that. Some of what they do is reasonable and acceptable, and some of what they do is much less than that. But that's as it would be with any system.

So, in closing, since you have all of the briefs and the practical material before you, I hope that you study it. I hope you do not proceed to break this historic deal with your constituents, those injured workers who through no fault of their own suffer an injury in the workplace. I do not know, in my 22 years of experience as a union rep, of one single instance where a worker knowingly put himself in the way of an injury. I guess I've been lucky; I never met any masochists. If I meet any masochists, I

will advise them that that's an unwise behaviour. Masochism is, as I understand it, a relatively rare disorder. Any questions?

Mr Christopherson: Thank you for your presentation. I think you've done an excellent job of outlining how the changes that this government has introduced will work to the detriment of workers and to the benefit of employers and their bottom line.

I'd like to focus a bit on the bipartite board that's being dissolved. As you know, right now workers have 50% representation on the board and have an equal say in the decision-making. This government has decided that workers need to be put in their place, and their place is a minority voice on this board. Can you give us your thoughts, in your own words, about how you think workers, the people for whom this system was set up in the first place, will be losing as a result of the 50% bipartite representation they now have being knocked aside?

Mr Sommerville: Yes, David, I think I can. My experience goes back to before we had bipartite and after, so I have a certain advantage of an overview. Before we had bipartite, the role of the MPP was very much central to resolving workers' compensation problems in the board, because the only instrument that union reps like myself had to try and move a system that tended to be rather slow off square one was to contact the chap's member of Parliament, ask for a letter—and I know you folks are busy folks, and I think you want to think about the future carefully when you think about that, because when we lose the bipartite approach, we lose the people with whom we assist our injured workers.

Typically—I'll give you a case example—in the old days, a worker would get injured on the job. His case would go into investigation. Investigation by the board into the case might result in a delay of six to eight months, typically. In the interim, the workers I represented were relatively fortunate; they had a health care plan that clicked in and they had supportive benefits.

But in order to win the chap's case, or at least to get some speed to the resolution of the case, I would contact the local member of Parliament, whether that was a Liberal, Conservative or an NDP person. I would contact that person, write him a letter, he would write a letter to the appropriate adjudicator providing some supportive information that I would provide to him, that would go through a bureaucratic process, and eventually I might be able to cut a month, or a month and a half if I had a really sharp MPP working on the job, to get it done.

When we got the barpi—bipartite—sorry, I got my tongue in my eyetooth so I couldn't see what I was saying. When we got the bipartite boards—that's hard to say fast—what happened is, I had a contact person at the board who would quite honestly, very objectively, look at the facts and, if he saw that somebody was dragging their feet on purpose, speed up the process, and I might be able to cut as much as four months off of what was otherwise a built-in delay. I think that might focus what your future's going to be like, because I can assure you, if the bipartite board goes away, all of the people I have who are having problems with the board are going to be

getting in touch with their various members of Parliament, because it's the only instrument I'm going to have left.

Now, you might say, "That's great; I'm going to have some direct contact with some of my constituents." But there's a problem in it, because I don't care how good you are, that bureaucracy's going to eat your time up just like it eats mine.

Mr Baird: I'll just go very quickly, given that we've only got about a minute and a half left. With respect to the three-day waiting period and the question you brought up with respect to the right to sue being restored, that will form part of Mr Jackson's study. He'll be issuing a discussion paper in the coming weeks and will then be undertaking a consultative process. I'm sure he'd welcome your views and thoughts on that when he does begin his consultative process, shortly after the release of his discussion papers. That's so he'll have a focused and clear discussion on that.

With respect to the reduction of benefits, I think the motive is very important here. We may disagree on the substance of it. Our motive is I think twofold. One is to have a WCB system there to protect injured workers that's financially strong and vibrant to ensure that we can meet the demands, the justifiable and straightforward demands of injured workers; that the money is there for them. We believe that if we don't take action, the money simply won't be there for them, and that's our motive. We very well may disagree on how to get there.

Secondly, with respect to job creation, we believe that a good WCB system is important for job creation and an expanding, growing economy. That's another one of our motives.

Finally, I would wholeheartedly concur with your view when you said that you were anxious to bring an end to any fraud in the system. When you stated that there would be inevitably some level of worker fraud—we don't know, no one knows—I would just wholeheartedly share your view. In our judgement, no matter how small it is, no fraud is good and we want to make sure that both workers and employers don't defraud the system, because I suppose they're not so much defrauding the system but defrauding injured workers themselves. We believe that no fraud is good and I would just concur with your remarks there.

Mr Sommerville: I'm going to interpret your question, because it wasn't framed as precisely as a question as I thought it was.

On the three-day waiting period, you should think about the jurisprudence that is built into the compensation appeal system. One of the principles you have to understand is a concept called workers' continuity of complaint. If you delay the complaining process by three days, particularly in non-unionized environments, you're going to have intimidated injured workers forced to beg

for work placement while injured. Since they can't afford to do without the money—I know this may not be a part of your experience, but workers really need all the money they get. I read a statistic the other day that 80% of the people in Canada are spending 117% of what they earn. Obviously, workers cannot afford to lose three days' wages or benefits that would replace it.

In addition to that, you must come to understand that that initial report of injury is absolutely vital to a fair appeal process. If you eliminate that evidence that happens at day one when the guy gets hit by the truck on the job and you force him to lose wages or benefits or you force him, in non-union environments, to beg his boss for some kind of like-job placement for which he has no legal or contractual rights, in those environments you're going to create such gross injustices that it will be unbelievable.

I know I'm over, but additionally, in regard to the unfunded liability, the last time I checked, the banks and the insurance companies were not a part of this system. If the banks and the insurance companies were to be made a part of this system, as they well and properly should be, because people in banks do get injured, people in insurance companies do get injured, this system, which is supposed to be an all-encompassing system to cover all of the workers in the province of Ontario, would be totally funded, if the banks only paid their fair share.

The Chair: We appreciate your presentation here today, Mr Sommerville and Mr Wiersma.

Just for the members of the committee, we have one housekeeping matter. The group slated to speak to us at 11 o'clock still has not arrived, and we've had not further correspondence from them. I guess there would be an opportunity for them to be slotted in at 6:15, given the standing order that was passed enabling our sitting times.

The procedural matter I'd like to deal with, though, is that Mr Christopherson has presented a substitute form. However, it was presented after the 30-minute deadline. Am I to take from your comments when you handed it in that there will be no other representative from your party?

Mr Christopherson: It's the only one that was confirmed. Yes, that's our difficulty. I apologize for the lateness, but it's from 5 o'clock on for today.

The Chair: It is within the purview of the committee, if it deems fit.

Mr Duncan: Do you want to allow them to substitute someone else?

The Chair: We need unanimous consent to allow them to do that. All agreed? Agreed.

Mr Christopherson: I appreciate that. Thank you, members of the committee.

The Chair: With that, the committee will stand recessed until 3:30 this afternoon.

The committee adjourned at 1203.

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Hardeman, Ernie (Oxford PC) for Mr Chudleigh

Wettlaufer, Wayne (Kitchener PC) for Mr Carroll

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ISSN 1180-4378

Legislative Assembly of Ontario

First Session, 36th Parliament

Assemblée législative de l'Ontario

Première session, 36^e législature

Official Report of Debates (Hansard)

Monday 11 December 1995

Journal des débats (Hansard)

Lundi 11 décembre 1995

**Standing committee on
resources development**

**Comité permanent du
développement des ressources**

**Workers' Compensation and
Occupational Health and Safety
Amendment Act, 1995**

**Loi de 1995 modifiant la Loi
sur les accidents du travail
et la Loi sur la santé
et la sécurité au travail**



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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
RESOURCES DEVELOPMENTCOMITÉ PERMANENT DU
DÉVELOPPEMENT DES RESSOURCES

Monday 11 December 1995

Lundi 11 décembre 1995

*The committee met at 1533 in committee room 1.*WORKERS' COMPENSATION
AND OCCUPATIONAL HEALTH AND SAFETY
AMENDMENT ACT, 1995LOI DE 1995 MODIFIANT LA LOI
SUR LES ACCIDENTS DU TRAVAIL
ET LA LOI SUR LA SANTÉ
ET LA SÉCURITÉ AU TRAVAIL

Consideration of Bill 15, An Act to amend the Workers' Compensation Act and the Occupational Health and Safety Act / Projet de loi 15, Loi modifiant la Loi sur les accidents du travail et la Loi sur la santé et la sécurité au travail.

The Chair (Mr Steve Gilchrist): Seeing a quorum, I call this meeting to order. Good afternoon, all. Our thanks particularly to the two groups that, unfortunately, were unable to make their presentations last Wednesday. We're particularly grateful that you've found the time to come back a second time to make your presentations to us today.

TORONTO WORKERS'
HEALTH AND SAFETY LEGAL CLINIC

The Chair: Our first group is the Toronto Workers' Health and Safety Legal Clinic. Mr Ublansky, good afternoon.

Mr Daniel Ublansky: Thank you. For those of you who aren't familiar with the clinic, we are funded by the Ontario legal aid plan to provide legal and technical advice and representation to unorganized workers who face health and safety problems at work. Our activities are controlled by a board of directors elected from the community. The clinic provides workers with information about health and safety hazards in their employment, advice about their rights under the law and legal representation where that is required. In addition to individual advocacy, we undertake community education and outreach programs aimed at unorganized immigrant workers and engage in law reform initiatives, such as the presentation of briefs to standing committees.

Every year, thousands of Ontario workers are killed or injured on the job. The exact number of injured workers is difficult to determine with precision. Although WCB statistics are the usual source of reference for this information, many have argued that the actual number of workers experiencing some form of occupational injury or disease is much greater.

A Statistics Canada survey that was done in 1991 found that two thirds of adults working at a job or business in Canada felt that they are exposed to health hazards at work. Half of those adults exposed to health

hazards reported that they have actually suffered some form of adverse health effect as a result of that exposure. That means that less than 10% of workers whose health is damaged by their working conditions actually receive benefits from the Workers' Compensation Board.

In our submission, the real crisis in workers' compensation today is unsafe and unhealthy workplaces. No matter what numbers are used, the facts are undeniable: Too many workers are being injured and made sick at work. Employers in this province must be held accountable for the compensation crisis which they have created in their workplaces.

Employers have a responsibility under the Occupational Health and Safety Act "to take every precaution reasonable...for the protection of a worker." The Ministry of Labour employs over 200 inspectors to cover almost 120,000 workplaces in Ontario and enforce the provisions of the Occupational Health and Safety Act. In 1994-95, inspectors made 30,000 visits to workplaces and issued 40,000 orders in respect of violations. These violations, together with the 300,000-plus claims which are allowed by the Workers' Compensation Board, speak for themselves as to the lack of commitment of employers to the health and safety of their workers. It should come as no surprise to anyone that compensation costs are as high as they are when there is such little regard for health and safety legislation.

We do not accept or believe that it is impossible to reduce accidents and occupational illnesses to a manageable level. There are responsible employers who are committed to health and safety in their workplaces, and the results show up in their accident frequency rates as well as in their profit levels. However, the majority of employers view safety legislation as a nuisance and refuse to make the additional expenditures required to avoid lost-time injuries. These employers are being subsidized by the good performers and by injured workers who have had to absorb reductions in benefits in recent years. How long are we going to continue to let these poor performers off the hook?

Earlier this year, Liberty International Canada commissioned a study of the workers' compensation system by William Wilkerson. The conclusions and recommendations of that study provide a balanced approach to WCB reform. The study attacks the notion that accidents are inevitable and proposes that WCBs take a much more aggressive approach to the issue of prevention. In fact, the study places the highest priority on encouraging employers to improve their health and safety performance.

The potential for savings in this approach is enormous. If one examines the lost-time accident frequency figures for firms in the same industry, there is a tremendous range of experience. The following table extracted from the study demonstrates this variability. If you look at the numbers before you, it's just striking how the worst performers are so much worse than the average.

Dupont Canada Inc is an example of the spectacular results that can be achieved as a result of a corporate commitment to health and safety. Dupont has a lost-time frequency rate that is 100 times better than the average of Ontario manufacturers. If the level of lost-time claims costs in Canada could be reduced to a level that is 10 times higher than the Dupont Canada rate, the reduction in costs could eliminate the unfunded liability and eventually contribute to a reduction in employer assessment rates, according to the study.

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The study describes the research which has been done to try to identify the factors which distinguish the good performers from the bad. Again, without getting into a detailed description of that research, one conclusion is clear: Many of the most important determinants of frequency of injury claims are factors which employers can control. That is the bottom line.

Having identified the substantial potential for improvement, the study proposes a series of win-win strategies that offer cost containment as a natural outcome, not a driving strategic purpose. These strategies focus in on the two key drivers of cost in the system: accident frequency and accident severity. The study concludes, "The only long-term way to reduce workers' compensation costs is for everyone to commit to the idea that all injuries and illnesses are preventable." When accidents happen, there must be a disability management program in place that ensures "the duration of lost time is the minimum necessary to return the injured worker safely to the job." In other words, the two strategies are keyed to reduction of accidents and early return to safe work. Those are the long-term solutions to the problems of workers' compensation.

The importance of the Liberty International Canada study is that it shifts the focus of reform back where it properly belongs: to the workplace. Employers control what goes on in Ontario workplaces and employers must accept the lion's share of the burden for implementing the long-term solutions to problems in the system. As the study points out:

"It is important to underline the role of employers in the first two stages of the win-win strategy. They must make a solid commitment to the mutual problem-solving approach and the concomitant changes in the working culture that are needed to foster shared decision-making. They need to lead an exceptional commitment to safety and prevention of accidents in the workplace. They must be supportive to the injured worker and participate fully in return-to-work activities. There must be a diligent search for modified work activities and a willingness to make justified work process changes that reduce risk. In short, there must be an acknowledgement that an important share of the burden of workers' compensation reform

rests with the employer. Where employers are prepared to take on this leadership role, success will be achieved only if workers and unions are fully committed to a mutual problem-solving role."

This approach is in contrast to reform efforts which focus on the management and administration of the WCB per se. Sometimes there is a tendency to believe that improvements in the internal administration of the WCB combined with legislation that compels workers and employers to behave differently will result in better outcomes for all parties. Although some benefits can result from this approach, they are far less lasting and far less beneficial than when the workplace parties have developed the solutions themselves.

Unfortunately, Bill 15 is one of those reform efforts that focus on management and administration of the WCB for the most part. It introduces a series of punitive measures against employers and workers which will likely create a great deal of apprehension and confusion and do little to improve the Workers' Compensation Board's financial position.

Just to highlight several features, the provisions which require reporting of "a material change in circumstances" and create an offence for failure to do so are much too vague to be understood by injured workers. How is one to judge what constitutes a material change? This is a complex legal question that can't be answered in a vacuum. If there are specific areas of conduct that the government wishes to deal with, then they should be identified and particularized.

Similarly, the provision making it an offence to make a false or misleading statement or representation in connection with entitlement to benefits creates the potential for considerable abuse. This goes far beyond dealing with deliberate attempts to defraud the board in order to secure the payment of benefits. What constitutes a misleading statement or representation in connection with any person's entitlement to benefits? Again, an open-ended question. This is a complex legal question which, if interpreted broadly enough, would serve as an intimidation factor in the representation of injured workers. Surely the board is able to sift through misleading statements or representations and render its decisions on the basis of the facts that are before it.

Finally, and of particular concern to the clinic in light of the comments I made earlier, are the amendments to the purpose clause. On the one hand, while we support the inclusion of paragraphs 5 and 6, which add the prevention of occupational illness and injury and the promotion of health and safety to the purposes of the act, by subjecting these purposes to the proviso that they are to be accomplished in a financially responsible and accountable manner, it sends a mixed message to employers, in our view. If the intent of these qualifications is to say that it is acceptable to put a price on worker health and safety, then we believe this will be counter-productive. As the Liberty International Canada study points out, it is important to encourage employers to view safety as an investment. We believe that this provision will focus attention on the cost element and provide a justification for inaction.

I thank you for the opportunity to make these submissions. If there are any questions, if we have time, I'll be happy to address them.

The Chair: Actually, Mr Ublansky, your timing was perfect, just fractionally over 15 minutes. Again, we appreciate your coming and making a second trip to see us, and particularly for bringing your comments in written form. That will assist us this afternoon.

GLAXO WELLCOME INC

The Chair: Our second group this afternoon is from Glaxo Wellcome Inc. Good afternoon.

Mr Bill Laidlaw: Chairman and members of the committee, thank you for the opportunity to make this presentation today. I was here last week but, unfortunately, couldn't present to you for reasons that you're aware of. My name is Bill Laidlaw and I am the director of government relations for Glaxo Wellcome Inc. I would like to start by giving you a brief description of our company and our presence in Ontario.

Glaxo Wellcome was created by Glaxo Canada's acquisition of Burroughs Wellcome in March of this year. Glaxo Wellcome is one of Canada's largest research-based pharmaceutical companies, with annual sales of approximately \$400 million. We're also the largest brand-name company in the world at this point in time.

Glaxo Wellcome Canada manufactures a wide range of prescription products for markets in both Canada and the United States. In Canada alone, Glaxo Wellcome invests more than \$50 million annually in research and development, including basic clinical research through partnerships with companies, academic institutions and support of independent research.

Glaxo Wellcome operates two facilities in Ontario: a head office in Mississauga and a manufacturing plant and development laboratories in Etobicoke. In total, Glaxo Wellcome employs 1,100 people in Canada and 800 in Ontario.

Glaxo Wellcome has made significant investments in Ontario over the last few years. In 1991, our Mississauga headquarters was completed. This marked the first phase of a multimillion-dollar expansion by Glaxo Wellcome, including a state-of-the-art manufacturing plant. Many members of the Liberal, Conservative and NDP caucuses were at that opening.

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Construction of a new \$111-million manufacturing and product development facility, adjacent to the administrative offices in Mississauga, will be completed in 1996 and operational in 1997, when we hope to have an opening. Glaxo Wellcome will employ approximately 350 people at this facility. All manufacturing of Glaxo Wellcome products will be consolidated in the new Mississauga facility, including the production of tablets, medicated creams, ointments, liquids and finished packages.

These investments have resulted in a significantly increased workforce. In the past seven years Glaxo Canada, now Glaxo Wellcome, has more than tripled the size of our workforce. More than 70% of these jobs were created in Ontario. Our commitment to Ontario and to our employees is the reason I am here today.

Glaxo Wellcome Canada competes directly with other Glaxo Wellcome companies worldwide for investment and product manufacturing mandates. As a result, a receptive and encouraging business environment and a productive and healthy workforce are critical to our success.

As we grow, so does our contribution to research and development, to the quality of health care for our customers and to the Ontario economy through investment and job creation. Our continued success is in large part the direct result of a capable and committed workforce.

In turn, our company is committed to providing a safe and healthy work environment for our employees. Our health and safety record is very strong and our WCB claims rate is low compared with the industry average. This is the direct result of a proactive approach and commitment to occupational health and safety throughout the company, which includes such things as: joint health and safety committees which meet regularly; an electronic, online health and safety manual, and a health and safety library accessible to all employees; compliance with federal and provincial legislation, including WHMIS and regular safety inspections and audits; a fitness centre and an occupational health unit—a nurse and doctor are on site; and a proactive claims management program and modified return-to-work programs.

First, let me say that Glaxo Wellcome supports the government's commitment to completely reform the workers' compensation system in Ontario. With an unfunded liability of \$11.4 billion, near-paralysis of policy decision-making created by a bipartite board structure, inefficiencies in the system, benefit levels which are the highest in Canada and continued uncertainty about entitlement in several key areas, the interests of injured workers and employers were not being well served.

In reforming the system, a balance must be struck between securing reasonable benefit levels and an effective service for injured workers, and establishing sufficient accountability and financial integrity to ensure that employer contributions which fund the system result in its long-term sustainability.

It is clear that short-term, Band-Aid solutions do not resolve these complex problems. A complex overhaul is needed to ensure a financially stable system that responds effectively to the needs of injured workers and employers. Bill 15 is an important first step in the achievement of this goal.

Glaxo Wellcome supports changing the structure of the Workers' Compensation Board of directors from a bipartite to a multi-stakeholder model. The workers' compensation system would be best served by a board made up of experts in a range of disciplines relevant to an effective insurance system for injured workers. In addition to representatives of employers and workers, representatives from such areas as health care, occupational health and safety, and the insurance industry, for example, would provide important perspectives and valuable advice on workers' compensation issues.

As with corporate boards, directors should use their individual expertise to the betterment of the overall organization in the case of workers' compensation

systems. In doing so, they represent the interests of the system's stakeholders, ie, employers and employees. In the past, Workers' Compensation Board members were appointed to represent the interests of either workers or employers, which often caused decision-making paralysis and resulted in decisions that didn't necessarily benefit the system as a whole.

We support the board structure proposed in Bill 15. It will allow employers and workers to be represented but also enable the board to have a broader expertise, critical for running an effective workers' compensation system.

Glaxo Wellcome also supports the introduction of greater financial accountability measures throughout the workers' compensation system. The future needs of injured workers will only be met by a system which is financially sound and able to meet future commitments. Employers must also have confidence that the funding they provide is used efficiently and effectively for its intended purpose; namely, the fair compensation, rehabilitation and timely return to work of injured workers.

The purpose clause introduced in Bill 15 is an important step towards establishing financial accountability through the system. While the board of directors was already required to act in a financially responsible and accountable manner, according to the changes made by Bill 165, passed last year, its ability to ensure financial accountability through the system was limited. The new purpose clause will require all actions by those in the system to be performed within the framework of financial responsibility and accountability. This can benefit everyone the system serves by ensuring the long-term financial stability of workers' compensation in Ontario.

Glaxo Wellcome also supports the initiatives taken in Bill 15 to eliminate fraud. These measures will ensure that the funding provided by employers goes directly to helping injured workers be rehabilitated and return to work. Fraud only serves to weaken the system by increasing costs for employers and creating an atmosphere of mistrust for the vast majority of injured workers who have legitimate claims.

Clear rules and stiffer penalties for employers who report incorrect information, or do not report at all, are another important measure taken in Bill 15.

Under value-for-money audits, they're simply a good business practice. Bill 15 requires an audit of one program each year to monitor whether revenues are spent efficiently and in a way that achieves the goals of the organization. We support the use of value-for-money audits until the unfunded liability of the system is eliminated. However, we believe that auditing only one program per year is not sufficient to identify waste and improper spending quickly, given the current financial state of the system and the unfunded liability.

Glaxo Wellcome supports Bill 15 as an important first step in reforming workers' compensation in Ontario. The changes in Bill 15 will set the stage for what we hope will be a complete restructuring and refocusing of the system in the longer term, including benefit levels and entitlement and assessment rates. We look forward to the important work of Minister Cam Jackson in the next stage of the reform process.

Thank you for the opportunity to make the presentation. I will be pleased to respond to any questions you might have.

The Chair: Thank you, Mr Laidlaw. We have five minutes and will start this round with the official opposition.

Mr Dwight Duncan (Windsor-Walkerville): Just a couple of questions regarding your statements, first of all, on the structure, moving into a multipartite structure. Does your company have any views on whether or not the proposed bill should be more specific with the exact composition of the board as opposed to the clauses which are in the bill right now?

Mr Laidlaw: We did make a suggestion in our presentation that a broader group of people be included. I come from an insurance background. I worked at Paul Revere Life Insurance Co for five years and I obviously have a bias in that it's important to have the right people at the helm making the right decisions, but today workers' compensation is a little bit different. I think it's important to have people from a number of sectors. That would be my answer.

Mr Duncan: Finally, moving on to the question of value-for-money audits, how does your company do value-for-money audits? Do you have a rotating policy?

Mr Laidlaw: I know we do them. I don't know the exact details as to how we do them.

Mr Duncan: How often would you do them?

Mr Laidlaw: We have a very good track record. We actually got a refund, and we have done in the last two or three years, based on how we manage our claims.

Mr Duncan: No, value-for-money audits in your company. Do you do them very often?

Mr Laidlaw: I don't know that; I can't comment.

Ms Shelley Martel (Sudbury East): Mr Laidlaw, on page 6 you talk a little bit about the bipartite board, which of course this bill is getting rid of. You said, in particular, "In the past, Workers' Compensation Board members were appointed to represent the interests of either workers or employers which often caused decision-making paralysis and resulted in decisions that didn't necessarily benefit the system as a whole." Most of the employers have come before us and said that, and I've been pretty clear about asking each employer group that's come if they could give me one or two examples of where that did occur under the board of directors that was put in place under our government.

Mr Laidlaw: I sit on the Business Research Network or the Novatel Group. Glaxo Wellcome does that because it's important for us to look at all issues other than just pharmaceutical issues. I guess the group that is composed there would be made up of people from GM, Ford, Chrysler, IBM and others. The examples that I have heard from them and members of other associations indicate to me that—the scenarios and the anecdotes are quite astounding—there was gridlock there and there were examples of it. Now, for me to give you a concrete example of a personal one, I can't give you one, but having sat there through a number of committees, I guess my general read on the situation was that there had to be a better system.

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Ms Martel: Don't feel bad. The other employer groups couldn't give me concrete examples either, so you're in the same boat as they are.

Mr Laidlaw: But I can get you something, Ms Martel, if you'd like.

Ms Martel: That would be helpful, because actually, the worker representatives who came—there were two of them: John Martin from Steelworkers and the rep from UFCW—made it very clear, as members who had sat directly on the board, that the minister's characterization, which is the same characterization that business is using, was, frankly, grossly unfair and that a number of good measures were passed in the times that were there; but yes, there was give and take as there should be give and take in any set of negotiations between the workplace parties.

It would be helpful if you could get that to this committee, because we haven't been able to track that down on the employers' side yet.

Just one other quick question. Where you say, "As with corporate boards, directors should use their individual expertise to the betterment of the overall organization, in this case the workers' compensation system," given that the representatives who were on the bipartite board were selected, five from worker organizations and five from business, don't you think that both business and labour would have been very careful and very clear about putting people on who would do just that: use their expertise to the betterment of the association or the organization?

Mr Laidlaw: Based on what I read and heard, I think they tried to, but the fact that it was a 50-50 split and the workers' union people seemed to clearly represent that group and business the other group—there was always a gridlock. I would think that the people who were appointed before were acceptable, but that 50-50 split is difficult when you're only representing your particular group. I think what this government's suggesting in terms of a multi-stakeholder group would be a lot more effective and efficient.

Ms Martel: If you could get us those concrete examples, that would be very helpful.

The Chair: We have time for one quick question, Mr Carroll.

Mr Jack Carroll (Chatham-Kent): Mr Laidlaw, on the same idea of the makeup of the board: If we designated the board as having two people from labour and two people from management and, say, three people from the community at large, with that designation in the rules, do you think that those people could come, as you say, to represent the betterment of the overall organization; or, being specifically named in the act to represent labour or management, would they have to come necessarily to represent that constituency?

Mr Laidlaw: I think when you look at representing, that's difficult. If we, in companies, had people on our boards who represented only one particular group of people, then we wouldn't have the best-managed companies. I think you've got to clearly establish the criteria

for selection and get the very best people you can get, based on merit, and maybe it should be an independent group that looks at that. But certainly, just focusing on, "Okay, if I'm there, I'm going to represent only my issues"—you've got to open up your mind and look at what's best for the actual Workers' Compensation Board.

The Chair: With that, we've reached our 15 minutes. Thank you very much, Mr Laidlaw, for not only coming to see us today but for making a second trip down, and thank you for your presentation and for your comments.

With that, we are finished with our presentations and we may now proceed to clause-by-clause. With the exception of Ms Martel who I'm sure will correct us if we take any missteps, if the clerk doesn't catch us first, I think we're all new to this process.

With your indulgence we'll proceed through, and as the first order of business—I think you've all had proposed amendments circulated; there have been a number proposed by both the official opposition and the third party—we'll go through this bill, as the term suggests, clause-by-clause and with your indulgence I'd first ask if there are any comments, questions or amendments to part I of the act.

Mr Duncan: What is the rule on comments? Why don't we have this discussion right now so we understand what the process is and we don't get tied up in procedural debates later on? How are we going to do this? Are we allowed to make a comment on each clause if we choose or how are we going to handle that?

The Chair: Mr Duncan, recognizing that all three parties had suggested they would respect a two-hour deadline, the Chair is open to any comments you care to proffer on any section, recognizing the fact that I would think you would want to save sufficient time to deal in depth with your amendments.

Mr Duncan: Are we going to deal with the amendments as we come to those sections? Is that the idea?

The Chair: That's correct. So right now, if we could just deal with part I of the act, are there any comments on that?

Ms Martel: Yes. If I might, I want to comment on paragraphs 5 in the purpose clause, which would read, "To prevent or reduce the occurrence of injuries and occupational diseases at work," and 6, "To promote health and safety in workplaces." Much of the change you see happening here in terms of adding those to the purpose clause is because the bipartite health and safety agency has been abolished by this government. We wait to see what will replace it.

Part of my concern with respect to why we're seeing this change now is that I disagree fundamentally with the movement of the health and safety agency and the work that it was doing into the Workers' Compensation Board, because I do believe very strongly that the focus that should be placed on prevention and preventive measures is not a focus and is not a responsibility of the board and one the board staff are going to be able to undertake. They're having enough difficulty just dealing with providing benefits to injured workers.

I'm very much opposed to that change and believe that the ministry and the minister should have kept in place

the bipartite board that was established first under the Liberals and then supported by us.

Mr Duncan: We just wanted to comment, as we did in debate in the Legislature, that despite the government's indications to the contrary, really this is nothing but a rearrangement of financial accountability that's already there.

With respect to the addition of points 5 and 6, we initially expressed concern that the health and safety act and the enforcement of the health and safety act not be moved to the board, and both the parliamentary assistant to the minister and the minister have now said that will not be the case.

We see this as simply a rewording of something that was already in the act. It was mentioned by a couple of groups. Indeed, one of the presentations today made note of the fact that financial accountability was already there. This presumably strengthens that. We think that's debatable.

Mr John R. Baird (Nepean): If I could just briefly respond, obviously the two fundamental changes made, in our view, to the purpose clause are re-establishing the importance of financial responsibility and accountability and, secondly, we think it's appropriate that basically what is an insurance agency seek as one of its purposes to promote health and safety in the workplace. That's our view.

The Chair: Any further comments on section 1? All in favour? Contrary? I declare that section carried.

Are there any questions, comments or amendments to section 2?

Mr Duncan: Again, in terms of the significance of the act, making an overpayment a debt due is something that, although it isn't specified in the act, has always been enforced, and we don't see this as a significant change except in the context that it's taken in, that is, the context of somehow accusing or blaming injured workers for the problems that we see at the board and to somehow suggest that injured workers are the reason why there is a big problem there. Again, this is a policy that's already practised by the board and we see this as being something of just stating the obvious.

The Chair: Any other comments on section 2?

Ms Martel: If I might, I think Dwight has moved on to section 3. Section 2 talked about the fines and penalties, which as I understand it just moved it all into the back. So in essence it's what we've already got in the bill as it currently stands. It's just been moved into a new part V.

1610

The Chair: If there are no other comments on section 2, we'll call the vote on that section. All in favour of the section? Contrary? I declare that section passed as well.

Section 3, any comments, aside from the ones already made?

Ms Martel: If I might add to what the member has said, I'm really concerned about this particular section because it doesn't make it clear to people that a good part of the time that there's an overpayment, it's because it's

happened at the board level, at the staff level; not purposely, not intentionally, not wilfully, but it happens, and we've seen it often in our office.

As it is written here, it makes it appear, frankly, that an injured worker should be penalized or is some type of criminal who we should go after immediately, regardless of his or her financial situation, in order to get that money back. I prefer to continue to use the current wording, which is in the legislation, which says very clearly that when money is owing to the board, it will be deducted from payments that are already being made to the injured worker, and a schedule of payments will be established that will not make his or her financial situation worse.

I am concerned about how this is written and what signal it will give to board staff in terms of very aggressively and actively going after an injured worker who's received an overpayment who's probably received that because of a fault of a board staff person in the first place.

Mr Baird: I'd like to respond. Obviously, the government's view, if an overpayment is made, whether it's a staff error, a human error, what have you, is that it only makes good common sense that the board would seek to recoup those funds, as is the case with unemployment insurance, for example. This is just basically strengthening the board's ability to do just that.

The Chair: I don't know if we normally allow rebuttal, but if you have any—

Ms Martel: We disagree about what the intentions of the board are going to be, I think, at this point.

The Chair: Okay. Any other comments on section 3? Is it the favour of the committee that section 3 carry? All in favour? Contrary? Section 3 carries.

Going on to section 4.

Mr Duncan: Section 22.1 and the subsequent subsection 161(2), as well as the same sections dealing with material change and the employer community: It would be my very strong recommendation to the minister and the government that they withdraw these particular clauses and refer them to Mr Jackson for further study.

I wrote the minister to that effect on Wednesday or Thursday last week, and she indicated at the time that her officials were looking at this issue. Given the range of concerns we've had expressed about this, both by the employer community and the worker community, I would really strongly, in as non-partisan a fashion as I can, recommend that the government refer these particular sections to Mr Jackson as part of his review.

Mr Baird: I appreciate your motivations in dealing with this issue. Obviously, our view on material change in circumstances is very fundamental to controlling both worker and employer fraud, that the obligation would be there on both parties to report in a positive sense any change in circumstances that occurs. We can obviously differ on that; we just think that it's essential, in terms of clamping down on both kinds of fraud, that when you're stealing money from the WCB by failing to report such a change in circumstances, you're taking money away from injured workers.

That's our view. So again, I appreciate your motive in speaking to that point, but it's our view to proceed.

The Chair: Are there any other comments?

Ms Martel: I guess I find the reference to "stealing money" a little bit strong. I think the PA wants to think about this a little further.

The fact of the matter is, both the employer and the worker groups have made it clear that the definition, or lack of definition, around "material benefit" is of great concern to them. Neither the employer community nor the worker community seems to have any kind of sense or notion as to what that in effect means and what they are supposed to be responsible for reporting to the board. I think that's a serious issue when you have at least that point in common from both of the groups that came before us, which on most other issues were quite divergent and separate in terms of their response to this bill.

I don't think anyone is condoning stealing; certainly no one is condoning fraud, but the fact of the matter is, the two parties that have to deal with workers' compensation have told this government there is no good, clear definition, and without that you are going to be penalizing people who may not have any clue and not wilfully, not knowingly, be in contravention of the act.

I think Mr Duncan is providing you an out on this which would allow some better work to be done and to try and get some consensus about what a material change actually means, and I think the government would be well advised to take that at this point.

Mr Carroll: On that same issue, because I think we used that terminology both as it relates to workers and as it relates to employers, can we get a comment maybe from some of the experts at the foot of the table here about whether the terminology "material change in circumstances" does leave the door open, as the opposition members would believe it does, or in fact do we have some fearmongering going on here? Can we have an interpretation of "material change in circumstance" from your perspective?

Mr Mitchell Toker: My name is Mitchell Toker and I'm with the policy division at the Ministry of Labour. The term "material change in circumstance" will need to be developed by policy at the WCB. The intent, however, of the words "material change in circumstance" is to reflect that something significant has occurred or will have occurred that will impact, in the case of the worker, his or her entitlement to benefits or quantum to benefits, and in the case of an employer, their financial obligations to the board.

In the case of an employer, it would be something that might impact their classification as an employer. If they moved from an accounting company into manufacturing: material change in circumstance. A worker, for example, who returns to employment, that would have an impact on his or her entitlement and/or quantum to benefits.

So I guess my answer is twofold. Policies will be developed. The ministry will be working closely with the board in developing those policies and communicating them clearly to employers and to workers. And, two, just how I explained it, it needs to be significant and it has to

impact entitlement, quantum or the employer's obligations under the act.

Mr Carroll: Okay. Just as a follow-up, in your professional opinion, will the average worker or the average employer have trouble deciding that something is a material change in circumstance?

Mr Toker: The board will have to communicate very, very clearly and consistently. In the case of workers, it will, for example, need to go out on a regular basis when workers receive benefits and it will need to explain what might be a material change in circumstance. The board will need to develop policies and communicate them so that it's as clear as possible.

Mr Baird: I was just going to answer Ms Martel's question, but you provided the answer.

Mr Duncan: I'd just like to say to my friends opposite, put yourself in the position of the nine business groups who spoke about that definitional concern and think about, for a moment, the somebody somewhere down at Front Street devising rules and regulations around material change and what that can do to a business or to a worker.

What we've said simply is that Mr Jackson will be bringing back his report, I assume, in the spring. My understanding is the discussion paper will be tabled later this week or next week. It would seem, given the concerns that have been expressed both by the employer community and the worker community, that we ought to think carefully about what the definition of "material change" is. Those of you who are lawyers will know and understand that that definition could be very, very significant. We've heard now not just from union groups but from employer groups, and a variety of them, about their concerns around that.

One of the reasons we're engaged in this exercise is because of the problems at the board, many of which have been created by the very policymakers who are going to be asked to define "material change." So I would suggest that it would be not only in the interest of the employer and worker community, it would be in the interest of the Legislature and the House to refer these particular four sections to Mr Jackson's review so that they can either thresh out more clearly what the Legislature intends by "material change," and with the government's majority they can put it through then without, in my view—by the time this bill is proclaimed and put into effect, Mr Jackson's report will be coming out, in any event.

So I think you're really potentially prejudicing employers, and we've heard that from employer group after employer group, by leaving the definition of "material change" in the hands of some anonymous officials at the WCB who will put their corporate spin on it, and who knows what they'll come up with. We've heard again repeatedly from the Human Resources Professionals Association, a whole variety of employer groups, about their concern around that.

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Ms Barbara Fisher (Bruce): Just a point of process here, just because we're rookies over here—at least I'll

speak for me. My understanding is at the point where "material change" is defined, it will be back for approval process. It doesn't just happen because somebody decides what the definition is. Am I right or wrong? At some point in time, does the definition of "material change" come for approval?

Mr Toker: I'm sorry; I was consulting. Can you repeat your question?

Mrs Fisher: At some point in time, does the definition of "material change" come before the committee with further amendments to other parts of the act under Mr Jackson or not? Does it come for approval or does it just get decreed somewhere and become fact?

Mr Toker: Once this bill becomes law, it will be incumbent upon the WCB to develop a policy. I might add, and I'm not here speaking of the Workers' Compensation Board, but what I can advise the committee is that the WCB has had for many years now an extensive consultation process where it consults with employers and labour and injured workers on all policies of significance.

Mrs Fisher: My question is, once that definition is created—

Mr Toker: The answer is no. Once the bill becomes law, the WCB will develop a policy, it will be approved by its board of directors, and it will become an operational policy of the Workers' Compensation Board. So the answer to your question is that neither this committee nor any other committee of the Legislature would review "material change in circumstance."

Mrs Fisher: But it will have to be adopted by the board of directors?

Mr Toker: It will go before the board of directors.

Mrs Fisher: So my feeling then is there's still the screening process somewhere where workers, employers and others—assuming a tripartite board—will have the opportunity to debate whether or not the definition is suitable. Based on that, given the fact that this is a governance change as opposed to a policy change, I recommend support of the motion.

Mr Baird: I would just speak to the same point again. The WCB will have to develop very clear policies on this area, which it will with every area of the act. They will not simply give copies of Bill 15, once it's proclaimed, to injured workers and employers. They'll have to develop very clear and specific policies, forms, leaflets, communication material to give to those client groups so that they can access both the responsibilities and the opportunities accorded under the act.

I think it's very important that the board have the flexibility to change those policies over time should they feel they have a need to. We've heard group after group after group come before this committee and say, "How come employers can get by without meeting fully their obligations under the act?" This gives the board the flexibility to deal with those who would rather duck their obligations under the act. I mean, there are very clear responsibilities, for example, for employers under the act, and I think this gives the board the flexibility. It gives them strengthened powers than they currently hold to meet that challenge.

Ms Martel: If I might, the problem is the employers now have a number of responsibilities that they should be undertaking that the board should be monitoring. We heard from groups time and time again that in fact the board is not following up on (a) employers who refuse to register, and (b) employers who refuse to pay their assessments.

We're talking about a new section now in the act. We're not talking about giving the board or officials at the board some added strength with this particular section to do something more. There's stuff that they're not doing now.

What we're saying, I think, the two opposition parties, is clearly you've had employers and workers coming before this committee to say to you: "We would like this defined before this legislation gets passed. We would like it defined, probably because there are fines and penalties attached to it and we don't want to be responsible for paying fines or penalties or finding ourselves in the position of being fined or penalized because we were not given or do not know or do not have a good definition of 'material change.'"

So I think when you see two groups who have come before this committee and said very clearly, "We have some serious concerns that in fact this legislative body is going to pass this section and we are going to let it go to the board and be determined by some bureaucrats over there who don't have accountability or responsibility back to this group or to this assembly," when people say, "You ought to take a second look," that's what we should do.

The two opposition parties recognize that clearly, even if it were to come forward under Mr Jackson's amendments, the government has the majority. The government will have its say and its way at the end of the day. What we are pointing out to you, however, is clearly a concern that has come from both parties that I think would take very little, frankly, for the government to address in an appropriate way.

Mr Duncan: Just in conclusion, because we've gone over it now, this isn't being offered up in a partisan fashion. It's just a very genuine concern that's been expressed by most of the leading representatives and advocates of both sides. I don't see any downside, from the government's perspective, of putting it over into Mr Jackson's report which will come out and which will give both employers and workers an opportunity to have more say in the establishment of whatever policies are established resultant from these clauses to the bill.

The delay of three months, I think, would be in the best interest of everybody to at least allow them some time to find out what the board's thinking is on the issue of material change. My experience in the past with the board on matters of policy, when the policies are developed, is there isn't nearly the opportunity for meaningful input that you have, say, at a legislative hearing, and that it's often very frustrating when you try to bring those concerns to the board. And again, I've heard that from employers time and time again.

Mrs Fisher: I just want to address one point here. I'm very cognizant of the fact that many of the parties, both employers and employees, who attended the hearings

questioned what really the definition would be. However, just to come back to one point, I think there is an opportunity for the non-partisan politics to benefit in the creation of a reasonable definition here. If the board is made up of all parties, like is proposed, and if—I don't care whether it's a bureaucrat, in all due respect. I don't care whether it's a bureaucrat who comes up with the proposed definition or whether it's a politician; the bottom line is it's supposed to be the definition that's best for people.

I think, in a non-partisan way, that then when the board, which is created of all people and all representatives—the workers, employers and others—get this new definition before them, it will have to be approved before it becomes something that's acceptable to them to work with as well. I personally am feeling very comfortable that that board is going to be very capable of doing that, with all of those interested parties involved and in part of the discussion. Whether they draft it or whether they revise it in the end, it doesn't matter to me, as long as it's fair to the worker and to the employer in the end. So I think we are taking care of it by passing it.

Again, I come back to the point that this is a governance issue. We're talking about definition of governance, not the actual definition itself, and I think it can be taken care of at the next stage.

Mr Bart Maves (Niagara Falls): I'd like to agree with Mrs Fisher's comments but I would like to add that I believe it's incumbent upon the board to come to some clarity in this area in a timely fashion.

Mr Pat Hoy (Essex-Kent): Just very briefly, these circumstances of material change is a grey area. We've heard this from management and labour sides both. If we're going to decide that the Workers' Compensation Board can decide all of these issues on their own, why are we amending the bill at all? So I think we should clear up this grey area and, as our critic has said, it will come to pass that we get to look at what is "material change," and the stakeholders will know.

The Chair: Thank you. Are there any further comments? Seeing none, I put the question. Shall section 4 carry? All in favour? Contrary? I declare that section carried as well.

Section 5: Are there any comments, questions or amendments on section 5? Seeing none, all those in favour that section should carry? Contrary? Section 5 carries.

On to section 6. There are three amendments. We'll take them in the order in which they appear within the section, which I'm told is the appropriate procedure. The Liberal motion would come first, the one amending subsection (1.1).

1630

May I speak to that? I don't want to take too much of the committee's time. We support the multi-stakeholder model, and we did so in the run-up to the election and in our Back to the Future document. The purpose of the amendment is to give more specificity to the government with respect to the actual makeup of the board itself. Instead of leaving it open-ended, we are suggesting that

at least two members of employers and two members who represent workers or workers' groups be a member of that board. Our view is—am I supposed to read it?

The Chair: Yes.

Mr Duncan: I apologize.

I move that subsection 56(1.1) of the Workers' Compensation Act, as set out in subsection 6(2) of the bill, be struck out and the following substituted:

Composition

(1.1) The board of directors shall be composed of,

(a) the chair;

(b) the president;

(c) two members who are representative of employers;

(d) two members who are representative of workers; and

(e) three members who are representative of the public.

The reason we are putting these forward is we believe that there are specific and defined stakeholders: the employer representatives, worker representatives, as well as the broader public interest, which should be represented on the board. This is consistent with the position we took in the election, although it is different definitionally. You'll be familiar, I know, Mr Baird, because of the number of times you've held up that red book, that we were, in our election document, more specific and we recommended a larger board with specific representatives like from the OMA and other professional groups, but for the purposes of saying that we support the multi-stakeholder model but that we would like to at least define how many worker and employer representatives, we've put this amendment.

Mr Baird: Just on that point: Obviously this goes to the essence of a multipartite board. I think you'd run into a tremendous amount of problems defining who is a representative of employers. If you had someone with an insurance industry background who had held managerial positions before their appointment, I think you'd have a tremendous amount of disagreement—are they representative of employers if they come from a management position in the insurance industry, for example? So I think this is just further debate on the issue of a genuine multipartite board or a sort of bipartite-like board.

Mr Carroll: I'll be opposed to this amendment. We got a comment from one of the presenters about people coming to the board from some constituency, not for some constituency. It's a very small differentiation but I think it's a very important one. I think as soon as we stipulate in the act that some people have to be there on behalf of a particular group, it is very difficult for them to come and not be for that group. Actually, all people are representative of the public. Whether they're workers or whether they're employers they all represent the public, so I think the open-ended model where everyone comes in the best interest of the Workers' Compensation Board, rather than in the best interests of workers, employers or somebody else, will give us the best chance at a board that is there to exercise its best expertise on behalf of all injured workers and all employers. For that reason, I will be opposed to the amendment.

Mr Duncan: If one looks at the composition of any board of directors in the private sector, you will see that the board is, in fact, made up of stakeholders. It's often composed of its bank, of its consumer groups; there are loads of instances of its major suppliers, of its major clients. That's the norm on most corporate boards. To suggest that certain groups don't have an interest in the functions or the affairs of the corporation is to simply not understand how virtually most private sector boards operate.

Take ManuLife insurance, for instance. The representatives on that board are composed of their bank, composed of their major suppliers, composed of their major clients. To ignore clients and suppliers and others who have a very direct interest in the affairs of the board is, in our view, to take an overly paternalistic view of how the board ought to function. Workers do have a say.

Our fear, quite frankly, with the wording of the bill as it stands is that workers will be left out. We believe it's the intention of your government not to have workers represented, and we think that would be a serious mistake. To not have a client group, a major client group that the board services, represented at the board level, is, in our view, just a very bad mistake in judgement. We think you can have a multi-stakeholder model and at the same time provide for representation for those groups.

We agree that the bipartite model has not worked because it doesn't take into consideration the broader public interest. We've proposed an alternative which we think is balanced and reasonable in the circumstances.

Again I stress to you and to the government, if you look at the makeup of any board of directors of any major corporation, you'll find that their boards are composed of the principal stakeholders of that company. Even in a lot of large companies today there are union people on the board of directors, and we think it's a mistake in a publicly operated insurance scheme that there not be representation spelled out in the act with respect to the client groups and the major constituency groups.

Mr Maves: Following on the comments of Mr Carroll, the one group that did make that presentation said the representatives should be from the business or worker communities if there were going to be those two communities, not representatives of, and they said that it is a subtle but significant difference, and I concur with that because the two members who are representative of employers may handcuff those employers when making decisions on the board that they are representative of employers and therefore their opinions and the way they vote would have to be representative of employers. So for similar reasons to Mr Carroll, I would vote against this amendment.

Mr Hoy: I have some experience at having sat on a board, appointed by a minister of the Ontario government and all the stakeholders came from agriculture, all 10 of them. There was no mix of participants on the board and it happened to work well.

My point would be, what would be the harm where we have representation from employers and workers who, if they did get into this so-called gridlock that happened in

the past, would be buffered by the other five seats on the board. Certainly I think the very nature of this board requires that employers and employees be part of that board.

The minister at the time who looked over the board that I was appointed to took an undertaking with the boards verbally—it was only verbally—that no past presidents of some such association were immediately appointed to the board, so we got a little bit away from that, politicizing it or making it from the employer group rather than of the employer group. In the other case it would be agriculture that you would plug in, but certainly I think you have to have the people who are most affected represented on the board in a fair and equitable way and then of course the offset is that we're proposing that there be five other people along with suggestions from your bill.

Ms Martel: I'm pleased to join in this debate on this particular section. It would be no surprise to anyone that I don't support the Liberal model of a multi-stakeholder group and I certainly don't support the changes that the government is making with respect to this section and moving from the bipartite model which we brought into place under Bill 165 to the changes that we see now under Bill 15. I want to make a couple of comments about that.

I found frankly that the minister's characterization of the bipartite model and the bipartite group was most unfair; in fact, I found it to be grossly unfair. She was very clear in her comments in the House to say, and I'll just quote again, "Unfortunately, the bipartite, labour-versus-management approach has paralysed constructive decision-making on very crucial administrative, policy and financial issues facing the board."

Part of the reason I spent some time with the delegations that were before us asking them for very specific examples about how and when the board had been paralysed was because I didn't believe the minister and I certainly don't believe her now given what I have heard from the deputations that have come before us. All of the employer community, to their credit, to be fair, used the same words in terms of characterizing the bipartite model.

Yet when we had two representatives from the worker community here before the committee, Ms MacKay from UFCW and Mr Martin from United Steelworkers of America, both of those individuals made it clear that their experience at the board had not been like that at all. Let me also add that we had Mr Dennis Schweitzer here as well from UTU who had been on the board in the lead-up to the more formal organization that was done by order in council in April. None of those worker reps who sat as members, who were involved in decision-making, could clearly give us any example where the board had been either paralysed or anything else as the minister wanted to characterize it.

It is true that when you have two groups who represent the workplace parties, as labour and management do, that you will have to have give and take, that they won't always agree 100% on every issue. But the fact of the matter is, at the time that the board was fired by this

minister, a couple of things were happening. Number one, for the first time the board had an operating surplus. Number two, for the first time in 10 years we actually had a down payment on the unfunded liability. Number three, you also had at the board an agreement certainly by the worker reps that they agreed to the financial package that had been put in place by Mr Copeland, who is still there, that would have seen the unfunded liability be reduced by the year 2014, which is the same year that it will be reduced under this bill by this government. So you had some very progressive measures that had taken place, despite the fact that the group represented on the one hand, business and, on the other, labour.

1640

I frankly have found it very offensive to be reading time and time again in employer briefs that the people who have to be selected to serve on the board somehow have to be qualified experts, have lots of expertise etc, to somehow suggest that the people who were there before, appointed either by labour or by business, weren't.

I think that those 10 members whose names were put forward by their two constituencies, labour and business, were qualified, capable, competent people who took their responsibilities seriously, who were very much aware that they were in charge of a massive corporation that provides benefits to workers in this province and assesses employers for payment of the same and who were undertaking that work in a very serious way.

For the life of me, I cannot understand why the minister would summarily dismiss them in the way she did and I can't understand why the employer community would come and, by inference and suggestion in their briefs, make it appear as if the people who were there were not qualified. I am sure that the business reps who were on that board would have been quite unhappy by how some of them came to be characterized in the briefs of some of their colleagues from business.

I clearly support the bipartite model. Obviously our government was in place and I was a member of the cabinet that put that in place. I think it's ridiculous that we would move back to a multistakeholder board model, the same kind of model that got us into the unfunded liability mess that we are in today, because in the same year that that group was in place under the last Tory government, the unfunded liability jumped over \$3 billion in a single year, the worst jump in the history of the board to date. I think that we should go back and put back in place the same bipartite model that was in place, that was working up until the time that the minister fired these folks.

So I will say clearly to people who are here, I asked very specifically time and again for all of the groups to give me examples and they couldn't, and that's because there aren't examples of how this group was paralysed. At the end of the day the only reason we had this bill before us is frankly window-dressing for the minister who broke the law by firing these folks because the law that was in place said that the administration at the board had to be bipartite and we find ourselves in a position of dealing with Bill 15 today which does nothing but justify the minister's unlawful action.

I think it's shameful that that's the position we find ourselves in today, and I certainly think it was shameful that those people were dismissed in the way they were and now suffer under some of the accusations that they have repeatedly from the employer community that somehow, somewhere, they weren't doing their job and they weren't qualified to be there in the first place.

Mr Duncan: I just want to appeal to the government members of the committee, if I can. I know that in your mind you hope this never happens, but let's envision a situation where there's a government that is not disposed to even listen to the views of the business community. Your government, having set this clause into the Workers' Compensation Act, has now created a potential animal that may not even have representation from the employer community. It leaves the government, leaves the Lieutenant Governor in Council, tremendous discretion with respect to the composition of the board.

While your party is in office and your government's in office, your friends in the employer community are trumpeting this, and it's all been very well orchestrated, but I urge caution to those delegations and I urge caution to you that you're setting up a board structure that could some day backfire on you, and I think that would be most unfortunate. As a matter of public policy the wording in this section of the bill creates, in my view, a section that thoughtful members, regardless of political stripe, ought to look at very carefully.

We are as a committee, as I understand it, supposed to make comments on these things, and I would suggest to you again that looking at it from the employers' perspective, while it may give some very short-term consolation vis-à-vis their views or their perception of what has happened in the past, you're creating a statute that is going to be very unwieldy in the future and could leave them exposed to a situation or a government that's not as disposed to listen to their points of view as the current government is.

I urge my friends opposite to use caution. We suggest very strongly that while we support the multi-stakeholder model, there ought to be more specificity with respect to the composition. If you don't accept this resolution, I would urge you to urge your minister to look at that whole issue, because what you're setting up here in the hands of another government or in the hands of someone else with a different agenda could be very detrimental to the business community.

The Chair: I'm going to alert everyone again that we have a two-hour time frame and we're on our first amendment. I would remind everyone that initiative was given three-party support. Please make your comments with that in mind.

Mr John O'Toole (Durham East): I unfortunately will not be supporting the proposed amendment to subsection 6(2). First of all, in terms of Mr Duncan's comment with regard to the composition of public boards, their motive is profit and they need to reflect the marketplace they're in, and I think they take those appointments as an important representation of their constituent group, whereas this board has a public mandate in the interest of injured workers. I think that's really what this government's trying to say.

As to the second part by Ms Martel, I tend to override any of her statements with the statements made by most of the businesses in this province, who are saying we have the highest premiums and the highest benefits and that needs to be addressed. Furthermore, the Provincial Auditor's report indicated there was need for reforms, and I think Bill 15 is addressing that need for reform, so I will not be supporting these recommendations.

Mr Baird: I'll speak very briefly because I don't want to belabour the point, but I wanted to respond to the member for Sudbury East's comments about the minister.

With great respect, you can't have it both ways. You just complained about 20 minutes ago that the previous board did nothing to go after employer fraud. This was the bipartite board that you put in place; you were in government for the last five years. If nothing happened, as a member of the cabinet you would have to take some responsibility for it.

To characterize the release of all members of the board, from both business and labour background, as somehow solely against labour is to read something that simply did not take place into the minister's comments, and I think it's an unfair characterization.

As to employer fraud, you complained that nothing was done to address employer fraud while half the board were representatives of employers. I suppose the point you've raised could be one we could all consider. We had one member of the former board who came before this committee and said that an unfunded liability of \$11.4 billion was not a problem.

Mr Maves: On operating surplus, I believe that \$400 million transferred over into the operations side from the investment fund could account for quite a bit of that.

Second, with regard to whether there was gridlock, quite a debate raged here on the financial improvement package and whose fault it was, the employer side of the board or employee side of the board, that that package got held up. I think it was Mr Mahoney who was pretty adamant about saying it was the employer side. To me, it didn't matter whose fault it was, one way or the other. What it represented was gridlock and that's why that bipartite board didn't work.

Ms Martel: I'd like to remind the parliamentary assistant that the bipartite board that was put in place under this government went into effect on August 6, 1995. That group was in place less than six months before the minister fired them, but in that six-month period they managed to have an operating surplus at the board for the first time. They managed to get the unfunded liability down even by \$100 million, and they also managed, at least on the worker side, to agree to a financial package that would have wiped out the unfunded liability by the year 2014.

The mess that has been created at the board for some long time now is not going to be fixed in six months, but I certainly think that, to their credit, that group of folks came a long way in that short period to get things under control, to get the unfunded liability going in the opposite direction for a change, to get a surplus for the first time in 10 years, and to get some agreement to move forward

on a package that would do what this government is now trying to do with this legislation.

1650

Second, with respect to Mr Martin's comments about FIP or with respect to the unfunded liability, no, he said it wasn't a crisis. This government has been trying to use this bill to make it out to be a crisis, and it isn't a crisis.

Time after time, the deputations who came before us made it clear that the board itself has over \$6 billion in assets; that they have never had and do not now borrow money; that the unfunded liability is representative of payments that would be due if injured workers had to receive those payments all at once, which is not the case in the province of Ontario—they are not all going to ask for their payments tomorrow; that in fact the bipartite board recognized they had to deal with the unfunded liability and were doing just that at the time they were let go.

I want to repeat that I think the employer representation of some of the folks on that board was unfair, both of the worker reps and of the business reps. I was very surprised that they would have said some of the things they did about their colleagues. But I repeat that I think the minister's characterization was very unfair, because clearly what we had before this committee in deputation after deputation was not one employer group that could give us one single concrete example of deadlock and two worker representatives who gave us clearly a different story.

The Chair: If there are no further comments, I'll put the question now. Shall the motion as read by Mr Duncan to amend subsection 6(2) carry?

All those in favour? Contrary? The motion fails.

The next amendment is proposed by the third party.

Ms Martel: I move that section 56 of the Workers' Compensation Act, as amended by subsection 6(2) of the bill, be further amended by adding the following subsection:

"Same

"(1.2) At least one half of the members appointed under clause (1.1)(c) must be representative of workers."

Mr Chair, I think that in my comments to date on the bipartite board I have made my point.

The Chair: There are no new comments arising out of what's substantially the same topic?

Mr O'Toole: If I may, I need a clarification as I'm a sub on this committee. I'm just wondering if perhaps one of the staff people could define—I mean this sincerely—what they mean by a "worker." Is that someone who is a member of a union? How do you define that?

The Chair: It might be more appropriate to ask the person making the motion.

Ms Martel: I think I should answer, because I don't expect the staff to respond to my amendment. We are assuming that under this we would be looking both at organized labour and the injured workers' groups in the province to be able to have half the representation on the board.

Mr Baird: I have a question. That would only cover the 30% or 35% of workers in Ontario who are union-

ized, so the 65% or 70% of workers who are not unionized would not get any representation?

Ms Martel: You see, the difference between your view of the world and mine is that I believe that unionized workers and the gains they make in terms of health and safety, employment, wages, salaries etc benefit all unorganized workers.

The Chair: No further comments? I'll put the question on the amendment as proposed by Ms Martel.

All those in favour of the amendment? Contrary? The motion fails.

There is another amendment pertaining to this section, also from the third party.

Ms Martel: I move that subsection 56(2) of the Workers' Compensation Act, as set out in subsection 6(2) of the bill, be struck out and the following substituted:

"President

"(2) The Lieutenant Governor in Council shall appoint the president on the recommendation of the chair and the members described in clause (1.1)(c)."

If I might just explain this, under Bill 15, the bill before us, it is the Lieutenant Governor or indeed the government, at the end of the day, who chooses the president. The Lieutenant Governor has only to consult with the chair and the members on the board of directors about who will be chosen as the president. Our amendment would have the Lieutenant Governor appoint that person who is chosen as president by the chair and the members of the board.

Mr Duncan: The ability of the Lieutenant Governor in Council to appoint the president is a fundamentally important prerogative of the government. I'd like to remind the members that our government appointed one Robert Elgie in a very non-partisan fashion. Dr Elgie performed admirably for many years. I know the minister was going to announce her appointment last week or was getting it ready, and I hope the appointment of the new president, when it comes about, and I expect it to be fairly soon, will be somebody of a very high calibre. The minister has indicated to me that she's looking for somebody and indicated that they may in fact have somebody.

Again, our experience in government was that we appointed a very respected individual and we were glad to have had that opportunity and to have had Dr Elgie's service in a very non-partisan fashion over the course of some six years that he served as chair of the board. I think and we believe that the government, the Lieutenant Governor in Council, needs this power, as they've always had, to appoint a president of the board.

Mr Carroll: I'm a little confused; I don't understand all the legalese. Do both of these not say that the Lieutenant Governor in Council will appoint—do they not say the same thing?

Ms Martel: The government bill, as it currently stands, has the Lieutenant Governor choosing the chair of the Workers' Compensation Board. The amendment I am proposing has the board of directors itself choosing the chair, as was the case under the bipartite model. Under the bipartite model, after the five directors from labour

and the five directors from business were appointed, it was up to them to choose the president.

Mr Carroll: You're talking about the president.

Ms Martel: Yes, I'm making the distinction between the president and the chair. The chair will be a Lieutenant Governor appointment as well, under your model; both positions would be under the bill that's currently before us. The change I am suggesting is that it would not be the LG who would choose the president.

Mr Carroll: How can we do this for the first president when we don't have a chair and members of a board? How can the Lieutenant Governor in Council consult with the chair and the members we don't yet have before appointing a president?

Mr Toker: If you look to subsection (2.1) below, it says that subsection (2) does not apply with respect to the first president.

The Chair: If there are no further comments, I'll put the question.

All those in favour of the amendment as proposed by Ms Martel? Contrary? That motion fails.

One more amendment, Ms Martel, on that section.

Ms Martel: I move that subsections 56(5) to (10) of the Workers' Compensation Act, as set out in subsection 6(3) of the bill, be struck out and the following substituted:

"Transition

"(6) The termination by the Lieutenant Governor in Council on November 1, 1995 of the appointment of each member of the board of directors then in office shall be deemed not to have occurred if a court makes a final determination that the termination was not authorized by law.

"Same

"(7) If the termination of the appointment of each member of the board of directors is deemed not to have occurred, the following amendments to the act shall be made:

"1. Subsections 56(1) to (2.2), as re-enacted by subsection 6(1) or (2) of the Workers' Compensation and Occupational Health and Safety Amendment Act, 1995, are repealed.

"2. Subsections 56(1) and (2), as they read immediately before they were re-enacted by those provisions, are re-enacted and in force.

"3. Section 59, as it read immediately before its repeal by section 8 of that act, is re-enacted and in force.

"4. Subsection 60(1) and (2) are repealed and re-enacted as they read immediately before their amendment by section 9 of that act and they are in force.

"5. Subsection 65(2) is repealed and re-enacted as it read immediately before its amendment by section 10 of that act and it is in force.

"Commencement

"(8) The amendments described in paragraphs 1 and 2 of subsection (7) shall be deemed to have been made on November 1, 1995. The amendments described in paragraphs 3 to 5 shall be deemed to have been made on the day on which the Workers' Compensation and Occupa-

tional Health and Safety Amendment Act, 1995 received royal assent."

1700

If I might explain this section, members will know that as the bill currently stands before us, it makes it very clear that the termination of each of the members who were fired by the minister, in contravention of the act that was in place, cannot be overturned in law, and it says very clearly under sections 6 and 7 that no proceeding, in terms of trying to have the members themselves take some proceeding in court to get themselves reinstated, shall be acknowledged. In fact, the whole purpose of this bill is to make sure that is not permitted to happen.

What we are saying in our amendments is that we disagree with the fact that the minister broke the law that was already in place and is now using Bill 15 to justify the breaking of the law, and that members who were board members at the time that they were fired should have the opportunity to challenge summarily being fired in a court of law, if that court of law agreed and a judge made it very clear that the law had been broken by the minister, that those folks actually should have their positions back and the bipartite model, which was in place, should be reconstituted and reinstated.

All the sections that then follow speak very clearly to policies and procedures that are going into effect now, as we speak, even though a new board has not been put in place and the law hasn't been changed to cover the breaking of the former act—also would be termed null and void if a court proceeding determined that the minister was wrong and the government was wrong and the folks had to be reinstated.

We feel very strongly that the minister should never have fired those folks in contravention of the act that was the law of the province in the manner that she did, and those folks should at least have an opportunity to challenge that in court. If they win in court, then the bipartite model should come back into effect and that's what we're proposing in these sections.

The Chair: Thank you, Ms Martel. Any comments? Seeing none, I put the question on the amendment as moved by Ms Martel to subsection 6(3).

All those in favour of the amendment? Contrary? The motion fails.

Seeing no amendments proposed to sections 7 through 11—I beg your pardon, forgive me. If there are no further comments on section 6 as an entity, and seeing none, it's kind of relevant we pass that section, given the debate we've had.

All those in favour of section 6? Carried unamended, as commented on? Contrary? The motion carries.

Seeing no proposed amendments for sections 7 through 11, are there any comments, questions or amendments to those sections? Seeing none, I will put the question.

Shall sections 7 through 11 carry? All in favour? Contrary? Those sections carry.

The next amendment we have receipt of is from the third party as well.

Ms Martel: I move that section 12 of the bill be struck out and the following substituted:

"Repeal

"(4) This section is repealed one year after the date on which the Workers' Compensation and Occupational Health and Safety Amendment Act, 1995 receives royal assent."

As it stands in the legislation that is before us now, the Minister of Labour is now given the authority to issue policy directives and objectives to the board of directors at the Workers' Compensation Board for an indefinite period of time.

Under Bill 165, which we passed, we gave that discretionary power to the minister for up to a year and then said that very clearly, after the point in time, after a year had passed, when the new board was in place and up and running, the Minister of Labour should no longer have that discretionary power to issue policy statements. What we are seeing with this amendment is that we don't believe that any Minister of Labour, and we included our own when we moved this Bill 165, should have the unilateral right to do that for an indefinite period.

Any new government obviously will want to put its stamp on any of its agencies, boards and commission, and that will happen, and that is probably an appropriate thing to do in a democratic institution like the one we operate under. However, we don't believe, and I clearly don't feel now, as I represent the party, that any minister, regardless of political party, should continue to be able to exercise that authority for an indefinite period of time.

If you're going to put a board of directors in place that you trust and that you hope will carry out its responsibilities in the best and most effective way, understanding the responsibility it has have to the corporation, after a certain point in time it shouldn't have to take direction from a Minister of Labour with respect to a number of outstanding issues. They will deal with those issues in a manner which is best both for injured workers and for employers who share the system.

I would like to see that discretionary power, which appears to be unlimited at this point in time in Bill 15, actually restricted and we revert back to what we had in Bill 165, which would have limited it to a year.

Mr Duncan: I just want to go on record that I don't support the NDP amendment, and to members of the government, I'll refer you to section 65.1 of the Workers' Compensation Act, which reads: "65.1 (1) The minister may issue policy directions that have been approved by the Lieutenant Governor in Council on matters relating to the board's exercise of its powers and performance of its duties under this act."

Frankly, as an opposition party, I relish the fact that the clause be left in the Workers' Compensation Act, because the whole notion of schedule 2 agencies, which the board is, saw them being at arm's length from the government. As long as this clause is in the bill we will be able to say to your minister directly, on any matter: "Minister, you have the authority to act on it. It is not appropriate to say this is a matter for the Workers' Compensation Board." As an opposition party we rather relish that, and I should say, as I said to the parliamentary assistant and as I said to the minister, I suspect you will rue the day that you left this particular clause in the bill.

It is, in our view, contrary to the nature of what were formerly known as schedule 2 agencies. I don't know if they still are, but we suspect that you will rue the day that this clause was left in the bill and we advised the minister that we thought that it's not necessarily in your best interests. However, if you want it there, it's there.

What it does is it says you folks have the power to override the board, and so any time there's a problem at the board—and there will be problems, no matter how well qualified the people you put on the board are—it's going to be with the government, and if the government fails to take action, the government will be accountable for it.

We don't feel this strongly about this section, and as an opposition party I can tell you we're quite glad to have it there. It allows us to question the minister directly about the affairs of the board.

Mr Baird: Our friend from Windsor is looking forward to holding this government accountable, which I think is quite admirable. I think it's the government's intention that this power would be seldom used, but there would be a necessary element of our ability to be accountable to the people of Ontario, whom of course this board works for. That would allow the government the ability to act on those seldom and rare cases.

I guess that's a fundamental distinction between our party and yours. We seek the accountability. We want to clean up the WCB and don't want to scapegoat with an answer in question period. I think the intention is there to get a greater degree of accountability to be used on what is likely a rare occasion.

The Chair: Thank you. If there is no further comment, we'll put the question.

All those in favour of Ms Martel's amendment to section 12? Contrary? I declare that amendment failed.

Is it the favour of the committee that section 12 carry? Contrary? Section 12 carries.

Moving on to section 13, I see there is an amendment. 1710

Mr Duncan: I move that subsections 65.2(1) to (2.2) of the Workers' Compensation Act, as set out in section 13 of the bill, be amended by striking out "the minister" wherever it occurs and substituting, in each case, "the Legislative Assembly."

Do you want me to speak to that?

The Chair: Please.

Mr Duncan: We believe that the memorandum of understanding ought not to be just with the minister but with the Legislative Assembly of the province of Ontario. Again, I counsel my friends opposite that, remember, you're writing a statute; you're passing a bill that will affect the function of the board and its relationship not only to the government but to the Legislature beyond this mandate, and our fear, again, is that by vesting most of the powers that are outlined in the memorandum of understanding with the minister, you are overlooking the Legislature and the legitimate role the Legislature may have to play in a body like the Workers' Compensation Board.

Let's take the notion of the minister deciding where the value-for-money audit is going to be conducted every year. Let's just for a minute say that you've got a government that's in power that isn't sensitive to the perspective of the business community and there's a concern around the way fraud is being pursued. That's where you want the value-for-money audit but the minister really doesn't want to deal with that, so the minister appoints the value-for-money auditor to look at the purchasing department of the Workers' Compensation Board.

In effect, by adopting this type of wording around the memorandum of understanding, it's the view of the official opposition that again you are vesting too much power with the minister of the day and not enough with the Legislature. We think the Legislature and the members of the Legislature who get the calls in their constituency offices from the business community and from the injured worker community ought to be the ones the board is accountable to.

It can be argued, and I'm sure the government will, that indirectly, through the minister, the board is accountable to the Legislature. I would suggest to you as long as you have a government that's friendly to your perspective, this clause works well; when you don't, and that's the vast majority of people—the vast majority of people are concerned with who the government is or they're concerned with the proper functioning of the board and its relationship to the broader public interest—I would suggest to you that the terminology in this section around the memorandum of understanding is fraught with danger.

Mr Baird: With respect, the Minister of Labour is accountable for the Workers' Compensation Board to the Ontario Legislature. I think that is most appropriate and members of the Legislature can hold him or her accountable for the ongoing activities at the board.

For example, the memorandum of understanding is between an agency and the minister, not the agency and the Legislative Assembly, and that's important to remember with respect to memorandums of understanding. So it would be, I think, completely inappropriate with the memorandum of understanding between the agency and the Legislature when it's not; it's with the minister. So both, I suppose, with accountability in the previous amendment and responsibility, there's a balance there.

Mr Carroll: I'd like to thank Mr Duncan for his concern about the wellbeing of the members of our party in the future. It's very honourable of him to be so concerned about us. I'd like to ask him at the same time if he thinks that this taking away of power from ministers should apply to all ministries or just this particular minister. It seems a rather strange request he's making, and I would like to know whether or not he would intend that this would carry through all ministries, that we take away all their power and let the Legislative Assembly be responsible for all of the ministries.

Mr Duncan: May I respond? If you read section 13, it deals with a specific document, the memorandum of understanding. It is our suggestion that indeed this bill is all about accountability. You've talked about accountability. Why not be accountable to the elected representatives of the people? Why not, in as many instances?

I know that you want to simply do whatever you're told to do by your government, that you won't sit here and objectively look at the issues in the bill, even in a non-partisan fashion, where concerns are raised by virtually every interest group, again around the definitions that we talked about earlier. So yes, if you're intent on coming here and just do whatever they tell you to do, raise your hand and do it, then that's perhaps the way we should govern ourselves.

But with respect, you've talked about accountability. Why wouldn't you want it to be accountable to the elected people? Why not to the assembly? I'm dealing with this specific clause, and this bill is about accountability. Anybody who has been down at 400 University or anybody who has been up on Bloor or down at that new building knows full well that the minister's a shield. Frankly, from our perspective, that's great for the next four years, that's really good. You've set it up so that your minister and any future minister is completely, in your words, "accountable sometimes"—sometimes, I think you said. Maybe it wasn't "sometimes"; it was when you want them to be accountable.

Mr Baird: On rare occasions.

Mr Duncan: You want to be accountable on rare occasions. Here you talk about accountability. If you can lay aside and look at this in an objective fashion and look at what's in the public interest, and we can differ on that, but to suggest that our amendments aren't done in any way but to suggest that we agree with the need for accountability and have it at the Legislature—I mean, how many times has this committee studied WCB bills? How many times have there been special hearings? What we're saying is, let's make that a permanent feature of the way the workers' compensation system operates.

Our fear, from your perspective or from the perspective of members—and your party's been very good and done a terrific job at representing the interests of the business community. You campaigned on that, you were clear about it, you've made no bones about it. What we're suggesting to you, however, is that if there's another government in power that isn't as sensitive—and that has happened—to the business community—

Ms Martel: Name names, Dwight. Come on, name names.

Mr Duncan: The Liberals, of course. You know, us wild-eyed left-wingers. But you're setting up legislation and public policy that, in our view, is flawed and that, I would think and I would argue, the business community ought to be concerned about.

Mr O'Toole: Listening to Mr Duncan, in the previous issue under section 12 we were looking at the questioning of the power of the minister and he was endorsing that. I would remind him that what we're saying here is that the minister, after all, is accountable. It's a specific focus point for responsibility to direct policies and to redirect the actions of the board.

That's really what this government is about. It's making sure that there isn't some vague reference to the Legislative Assembly. Of course we're accountable, and any issues or concerns we have, we should address the

minister with those issues and concerns. They are the single point of entry into the system, and that's why I won't be supporting this amendment. I think you should reconsider what you said initially on the previous amendment.

Mrs Fisher: I just would like to also register a comment, and that is that I think Mr Duncan said it best when he said, "Although it might be noted that, in essence, some would argue that they are accountable to the Legislature." They are. I think your point's well made, so why argue it? I think that in the end they are accountable to the Legislature as a minister, and this is one step up the line, to the final line, which is the Legislature in total.

Secondly, I would hope that all parties represent the business community, not just one.

Mr Duncan: We are being entirely consistent in our amendments in sections 12 and 13. We said, very tongue in cheek, that you are going to rue the day. You know, there's a history around the Workers' Compensation Board that has the board very, very separate from the Legislature, reporting through the minister, and—I forget your terminology—on rare occasions you want the minister to be accountable. You said on rare occasions you want the minister to be accountable. What we're suggesting to you is that vesting all of this power in the minister is, in the long term, a mistake.

Mr Jerry J. Ouellette (Oshawa): I just think that an elected body, a majority is elected by the people of the province in order to be accountable and that the reason we appoint ministers is to make those individuals accountable. At such time that the electorate of the province no longer believes that those representative groups are accountable to the people, they would elect another government. In that sense, I don't feel that I can support this motion.

Mr Baird: I would wholeheartedly agree with my colleague the member for Oshawa that the Minister of Labour is accountable every day for the activities of the Workers' Compensation Board and correct the record.

1720

The Chair: If there are no further comments, the question is put by Mr Duncan, that section 13 be amended. All those in favour of the amendment? Contrary? The amendment fails.

Seeing no amendments proposed for sections 14 or 15, I would ask if there are any questions, comments or amendments to those two sections. Seeing none, all those in favour of sections—

Interjection.

The Chair: I beg your pardon; I did it again. Forgive me, folks. Is it the favour of the committee that section 13 shall carry? Contrary? Section 13 carries.

The clerk is earning his pay here today, for sure.

Back to the original question, are there any comments or questions for sections 14 or 15? Seeing none, all in favour of sections 14 and 15 carrying? Those contrary? Sections 14 and 15 carry.

Mr Duncan, would you care to speak to your next motion?

Mr Duncan: I move that subsection 77(3) of the Workers' Compensation Act, as set out in section 16 of the bill, be struck out and the following substituted:

"Same

"(3) The Legislative Assembly may determine, by resolution, which program is to be reviewed."

The Chair: Any comments to this amendment?

Mr Duncan: Briefly, because I referred to this earlier, but I would again suggest to you that it is in the interest of accountability that the Legislature, or a committee of the Legislature, be the body that determines what part of the board be reviewed. Again, I give you my example. I know this would never occur with your government, but let us say that there is a future circumstance where there is an item that really is bugging the Legislature or members of the opposition, or even indeed backbench members of the government, because I know in your deepest, darkest thoughts you have to question and be concerned about the policies your government is introducing. But let's say that there is an issue of burning interest out there and that the minister quite deliberately doesn't want to have a value-for-money audit done. Let's say you have a situation where you have an entrenched government that just likes the status quo and doesn't want change, doesn't want to make things work better and its interest is in defending what's there already.

I would suggest it would be in the broader public interest if the Legislature had the power to appoint these value-for-money audits, and not simply the minister. I would remind you again that in the future there will be circumstances where it won't necessarily be in the minister's interest, particularly given the fact that you've now given the minister the power to direct the affairs of the corporation. You've given the minister the explicit authority to go in and do something. So let's say that over the course of time the minister doesn't do something and a problem arises. Then it will be in the minister's best interests not to have it audited. So I would suggest to you it's in the broader public interest to have the Legislature determine where those value-for-money audits will happen and not the minister.

The Chair: Any comments? Seeing no comments, we'll put the question. All those in favour of the amendment? Contrary? The amendment fails.

Ms Martel: I move that subsection 77(3) of the Workers' Compensation Act, as set out in section 16 of the bill, be struck out and the following substituted:

"Same

"(3) Subject to subsection (3.1), the minister may determine which program is to be reviewed.

"Same

"(3.1) An experience and merit rating program established under subsection 103.1 must be reviewed for any year in which the refunds made under the program are greater than the surcharges made under it."

I want to explain this one to people. We know already, when the section passes, that in fact at least once a year the minister will determine what kind of program is to be reviewed. What we are suggesting is, because we heard this at many points in time from the worker community

in particular, there is a concern from the worker community that in fact under the experience rating system as it now stands there is much more money that goes out to employers in the form of rebates than the amount of money that comes in as penalties. But we also know that there are a number of penalties assigned to employers which are not paid. Again, in some of the briefs that we heard that point was very clear.

If I might, in 1993 the board paid out \$216 million more in rebates than in fines collected, and in 1994 \$280 million more in rebates back to employers than in fines that should have come in. What we are saying is that, over and above the single program or any program that the minister chooses to review, in a year where the rebates that are given out to employers exceed the amount of money that comes into the board in the form of penalties a review of that experience rating program also occur that same year.

The reason we're moving that is because we do want to get at the unfunded liability, like everyone else does, and part of the problem around the unfunded liability has been the inability of the board up to this point to be really aggressive in going after employers who, for whatever reason, do not pay the board what is owing. Under this particular section, we're saying that in a year where the rebates are more than the penalties that come in a review of that also take place to determine why that is so and what other action the board should be taking to deal with that.

Mr O'Toole: Just in response, I won't be supporting this, and the reason is I think the new legislation addresses, with penalties, those people who are not contributing to the system or are perhaps fraudulently reporting incidents within their workplace. So I think the new legislation adequately addresses, and in fact the whole experience rating system will become a much more important part of, the value-for-money audits. If that could indeed be a focus of the minister, I wouldn't perhaps omit that opportunity for her or whoever the minister is to do that, but I think the current wording adequately addresses both the workers and the employers who may be abusing the system.

In fact, right now the evidence is that technically the premiums and those benefits to defraud the system are driving the whole system underground. What I've seen in the workplace, where I have worked and been involved in WCB, is every opportunity perhaps is in the employer's best interests to kind of make the information less obvious, to look as if they're improving.

Ms Martel: But that is a part of my concern. The workers' group would have come forward and said that what the experience rating system does is just that, as employers then try and hide or paper over injuries that occur in the workplace. They do that either by having workers come in and sit around at work and have them try and claim disability benefits that the company might have agreed to with a carrier, or in fact have the employer claim it as a no-lost-time claim and, even though they are actually off, not have them off at home but sitting somewhere in the workplace, not doing any work either, because they're not fit to.

What the workers' groups were trying to say clearly to this group is that the down side of the experience rating system as it currently stands in place is that it does for some employers, not all, encourage them to hide accidents so that the assessments that they have to pay are reduced. What I'm trying to say is I think that there's probably a point to that and it probably does happen from time to time with some employers. The way we might get at that very issue is by also encouraging and ensuring in fact that the board, in those years where the rebates that are paid out are higher than what comes in, is forced to look at those employers, is forced to get at that issue again.

I don't see anything in the bill that is currently before us which specifically would deal with the experience rating system and getting at whatever kinds of problems or abuse, if you want to use that word, might be in that current system.

Mr O'Toole: It's my understanding that is addressed in the current legislation, and in terms of material change, the responsibility is on both parties, if there is a change, to be forthright about it. In that respect, failing to do that, there are penalties, whereas before that was not the downside risk. I think there are improvements in the legislation, so I won't be supporting this amendment.

Ms Martel: I don't think the issue has anything to do with material change. Right now, with or without any changes, there are employers who will use the experience rating system to hide the fact that workers get hurt. I'm not talking about a material change and employers shifting from schedule 1 to schedule 2 or shifting from a manufacturing trade to something else; I'm talking about those employers who get a benefit back, a rebate back from the experience rating system because they are not providing the board with proof that people have been hurt on their premises. They're bringing those people into the workplace and having them sit there all day and not claim compensation benefits so that at the end of the day they can have a reduced premium that they pay to the board.

The single way I think you can get at that is by having a particular focus, in the year where there is a surplus in rebates, on the experience rating system to see what those employers were doing and to understand why it is that we have such an excess.

In 1994, the \$280 million represented more than the board paid out that whole year to workers who were temporarily totally disabled. So if we could get some of that money back into the pot every year on an ongoing basis, that would go some small way too, I think, to dealing with the unfunded liability problem.

1730

Mr Duncan: Just a point before we vote. Subsection "(3) Subject to subsection (3.1), the minister may determine...." This is the same clause that's already in the bill. Because this is contrary to what we just voted on, I wonder if we can separate out the two clauses. One clause is already present in the bill, correct?

The Chair: Except it's amended by the words "3.1." So it is a substantive change.

Mr Duncan: Okay. It's just that I would prefer to be voting—I guess you have to vote for them.

Ms Martel: Just vote against mine and then move the one piece yourself.

The Chair: Are there any other comments? Seeing no further comment, the question's been put by Ms Martel.

All those in favour of the amendment that's been proposed? Contrary? The amendment fails.

Now section 16 itself. Is it the favour of the committee that section 16 carry? All those in favour? Contrary? The section carries.

Seeing no amendments proposed for sections 17 through 27, I would invite any comments, questions or amendments.

Mr Duncan: Sections 17 through 24 deal with a number of issues related to information requirements. When I addressed the Legislature, again I stressed to my friends opposite that the government has stated its commitment, its desire, if you will, to make Ontario a more investor-friendly place vis-à-vis cutting red tape, whatever that means.

We had the Corporations Act before the Legislature today that the government brought forward, campaigned on, in the interests of making Ontario a better place to invest. I know that members of the government, as members of our party, have heard from businesses everywhere that the amount of red tape, the amount of bureaucracy they must deal with in government, is stifling and costly, and that in order for them to function well they must have a reduction in the red tape. I spoke to Frank McKenna at some length about this issue, and he told me whenever they modelled Ontario against New Brunswick, New Brunswick won every time.

My fear with these sections—and we were originally going to propose amendments to repeal them or to remove the sections but we were advised that they may be out of order—is that I envision our friends down at the board getting these clauses of the Workers' Compensation Act and translating them into a policy, and a policy means more paperwork. I really have some fear around this and about the type of paperwork it could create for employers. Those of you who have operated businesses and who have represented businesses know that every time the Workers' Compensation Act is amended and add something, the officials, the public servants at the Workers' Compensation Board go to it in terms of creating paperwork.

So we flag our concern. We will vote against these sections, as I said in debate, because we think they run contrary to what your government is trying to do vis-à-vis red tape and paperwork everywhere else. We really urge the government to be cautious and to think about what you gain—a cost-benefit analysis, what do you gain versus what it costs in terms of red tape to businesses. It is our humble suggestion that what you gain by doing this doesn't outweigh the cost to business and the amount of red tape and paperwork you're creating.

Mr Baird: I will just speak very briefly to those comments. The Ministry of Consumer and Commercial Relations, through its Clearing the Path initiative, I hope

will expedite and speed up the process for business registration. One of the key components of that, of course, would be to register for WCB, which I think is an important initiative which has been significantly expanded under Minister Sterling from its introduction from Minister Churley.

Mrs Fisher: I would be the first to agree that one of the things we are trying to do as a government is to reduce that red tape and to eliminate the barriers. However, we also are responsible enough to realize that all employers should be somewhat engaged in workers' comp, and I think this is one way of ensuring that that responsibility is held fast by the employers. I don't think it creates anything new. Just because you have a policy development or a policy implementation doesn't necessarily mean new red tape or additional red tape.

I think that having sat through the numbers of days of hearings and listening to all sides of it, labour was very expressive about those who were avoiding that type of registration, and we fully support full registration by all employers. The sections that we're talking about right now certainly provide that that must happen.

Although I agree with Mr Duncan that this government doesn't stand for red tape—as a matter of fact, its elimination of red tape to small business—I fully endorse this because it then encourages and makes the responsibility to the employer to be sure they're registered.

Mr Duncan: Again, I just caution, I find it amazing, because I know the government's committed to eliminating red tape. Again, you've been very clear about it. What did you call that initiative you've got going?

Mr Baird: Clearing the Path.

Mr Duncan: Clearing the Path. Today we're throwing some scrub brush on the path, and tomorrow the Ministry of Consumer and Commercial Relations is going to come and take the scrub brush off.

I would refer the members to the very clauses in the bill. You always go back to first source. They taught me that a long time ago. Section 17, amending subsection 108.1(2) of the bill: "When registering....the board may require, an employer in an industry included in schedule 1 shall provide such information to the board as it may require to assign the employer to a class, subclass or group."

Again, I just imagine all those folks down at the board who do this, who write forms for a living and try to get in the way of business in this province, sinking their teeth into this and trying to come to terms with it. I would humbly suggest to the government that you are really doing something that you've really strongly fought against, and you've done it quite well, as evidenced by the numbers in the assembly. I would say to you that you should consider this very carefully.

We can't support it because we agree that we ought to be clearing the path—is that what we're calling it these days?—not throwing scrub brush on it. I would be very nervous about sending this stuff down to the folks at the board who make a living out of creating paperwork for businesses. What you're doing is you're directly running in conflict with what your other ministries are doing.

The Chair: Are there any other comments on sections 17 through 27? Seeing none, I'll put the question—

Mr Duncan: That was 17 through 24, wasn't it?

The Chair: No, through 27. All those in favour that sections 17 through 27 shall carry? Contrary? Those sections carry. Which takes us to another motion. Ms Martel.

Ms Martel: I move that subsections 13(3) to (6) of the Occupational Health and Safety Act, as set out in section 28 of the bill, be struck out and the following substituted:

"Transition

"(3) The termination by the Lieutenant Governor in Council of the appointment of each member of the board of directors as it existed on October 22, 1995, shall be deemed not to have occurred if a court makes a final determination that the termination was not authorized by law.

"Same

"(4) If the termination of the appointment of each member of the board of directors is deemed not to have occurred, the following amendments to the act shall be made:

"1. Subsection 13(2), as re-enacted by section 28 of the Workers' Compensation and Occupational Health and Safety Act, 1995, is repealed.

"2. Subsections 13(2) to (8), as they read immediately before they were repealed by that provision, are re-enacted and in force.

"3. Subsection 14(1), as re-enacted by section 29 of that act, is repealed and re-enacted as it read immediately before section 29 came into force, and it is in force.

"4. Subsection 16(8), as it read immediately before it was repealed by subsection 30(1) of that act, is re-enacted and in force.

"5. Subsection 16(9), as re-enacted by subsection 30(2) of that act, is repealed and re-enacted as it read immediately before subsection 30(2) came into force, and it is in force.

"6. Clause 65(1)(b), as re-enacted by section 32 of that act, is repealed and re-enacted as it read immediately before section 32 came into force, and it is in force.

"Commencement

"(5) The amendments described in paragraphs 1 to 3 and 5 and 6 of subsection (4) shall be deemed to have come into force on August 23, 1995. The amendment described in paragraph 4 comes into force on the day on which subsection 30(1) of the Workers' Compensation and Occupational Health and Safety Amendment Act, 1995, comes into force."

1740

The purpose of this section is to again draw attention to two things: One, that the minister, in contravention of a law that was in place at the time, also dismissed members of the health and safety agency in this province, who had been duly constituted, certainly under our government when we were there. She has, in this legislation, Bill 15, attempted to both justify that and protect herself by arguing that the law will not recognize any

court proceeding, either done by any of those members who were in place at the time or anyone else who wants to challenge what was done, and that regardless of what the law says or what a court would find, all of those court rulings would be null and void.

Secondly, we are also putting this forward again because we believe, as we did with the bipartite model at the Workers' Compensation Board, that there should be a bipartite model at the health and safety agency, and that the training that was well under way—over 30,000 people in the province—when those people were dismissed, was in fact training that workers in this province would have benefited by and from.

We are very concerned with respect to the fact now that we are not sure what kind of other model might replace that particular model. We certainly know that under this particular section, the agency will be composed of one single member, the executive director, and that person will be appointed by the government through the Lieutenant Governor in Council, and we will not have an equal representation of workers and employers, as we did when the bipartite model was in place.

We believe as we do fundamentally with the Workers' Compensation Board that that is the best model to use to deliver health and safety in the province of Ontario, that it was working, that people were being trained, and it was one that we should return to.

The amendment clearly says that as a matter of course people should have the opportunity to challenge the breaking of the law by the minister in court, and that if they so win their challenge in court that in fact the bipartite model would be reinstated and all of the responsibilities in exercising the power that those folks had before they were dismissed would be returned to them.

Mr Baird: I think it's important to put on the record why the government revoked the order-in-council appointments of the board of directors of the Workplace Health and Safety Agency. There was a tremendous amount of problems going on at the board, and the fact that there were these problems is acknowledged by a court who ruled when the Ontario Federation of Labour challenged those actions in court. The court ruled that these problems were significant and the minister acted fully and legally within her responsibilities under the act. The court upheld the actions of the government in accordance with the act. I think it's very important to put that on the record. I won't repeat all the same arguments, because this is basically a mirror amendment to the board of directors of the WCB.

Mr Duncan: Of course, the real issue here is the Workplace Health and Safety Agency. You will no doubt know that we spoke against disbanding the agency, which did run contrary—

Mr Baird: Before the election?

Mr Duncan: No, not before the election. We changed our view, and I said so quite publicly. I shouldn't say that. I should say that the previous caucus had changed its view because it was in fact a Liberal government that created the Workplace Health and Safety Agency, as I recall.

There were two reasons why we did that, both of which came out three years subsequent to our Back to the Future document. The first was Dr Tuohy's report, which came out in February of this year, and in Dr Tuohy's report, there were some 28-odd recommendations that were made to the previous government that addressed some of the problems that were present at the board.

As members of the government are no doubt aware, there was a sunset clause in the Occupational Health and Safety Act with respect to the agency that would've kicked in in 1996. Now Dr Tuohy recommended that the one-year clause be extended to allow her recommendations to be dealt with in a substantive way by the board of the health and safety agency.

The second issue that caused us to rethink our position was the August 28 letter by the auditor who is from one of those big accounting firms on Bay Street—I think Bill Farlinger's partner, if I'm not mistaken—who said that this agency is being well run. He served on it. He said it's had some problems, but he says overall it's doing a good job.

So we looked at that and, like thoughtful people anywhere, we would take into account the evidence that was put in front of us and we would say, well, Tuohy, who by the way is very strongly linked to the management community, was saying, "Give it another chance."

Among her recommendations were the removal of the bipartite board and establishing a new board. Finally, as an employer, I can tell you that we used the services of the agency. We came into compliance on April 1, as we were supposed to. Frankly, when I first was made aware of everything we had to do and all that, like most employers, I kind of went aaargh, you know, costs, paper work, all of that. But we sent our employees and we sent our management people for the courses and by gosh they were good and they worked.

So taking all of that into consideration, we did change our position. We did. We recognize that there were significant problems at the board level. I saw a number of problems. There was the perception from the management side that they weren't being listened to by the minister on any decisions. I mean group after group after management group that I met with this summer told me that.

On the other hand, we saw what we thought were some beneficial results, number one. Number two, we saw Dr Tuohy's report and we saw the letter from the auditor, Bill Farlinger's partner, I believe, who signed it and—

Mr Baird: Which firm was that?

Mr Duncan: One of those big accounting firms that support you guys. You know, they all supported you.

In any event, what we said was, given all of this information, let's act on Tuohy's recommendations. Frankly, we'll support this amendment because we think the way you handled the whole thing was inappropriate. It wasn't based on evidence, it was based on ideology, and we reject that kind of thing and we'd ask the government to revisit it carefully as Arthur Gladstone is considering what to do with this agency.

The Chair: Any further comments? Seeing none, I put the question. As moved by Ms Martel, all those in favour of the amendment? Contrary? The motion fails.

Section 28 itself. Shall section 28 carry? All those in favour? Contrary? The section carries.

Seeing no amendments for sections 29 through 34, are there any comments, amendments or questions on those sections? Seeing none, is it the favour of the committee that sections 29 through 34 carry? All in favour? Contrary? Those sections carry.

Shall the long title of the bill carry?

Interjection: I'd like to put on the record that the Liberal member voted for 29 through 34.

Mr Duncan: Please record me in opposition to that.

The Chair: No, it was not a recorded vote.

The long title. Shall the long title of the bill carry? All those in favour? Contrary? That carries.

Shall Bill 15 carry? All those in favour? Contrary? That bill carries.

Shall Bill 15 be reported to the House? All in favour? Contrary? The bill shall be reported.

Thank you all for your input. I appreciate very much the decorum that typified our activities these last few days and weeks. Thank you all. The next meeting of this committee shall be at the call of the Chair. The meeting stands adjourned.

The committee adjourned at 17:49.

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STANDING COMMITTEE ON RESOURCES DEVELOPMENT

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Vice-Chair / Vice-Président: Fisher, Barb (Bruce PC)

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*Maves, Bart (Niagara Falls PC)

Murdoch, Bill (Grey-Owen Sound PC)

*Ouellette, Jerry J. (Oshawa PC)

Tascona, Joseph N. (Simcoe Centre PC)

**In attendance / présents*

Substitutions present / Membres remplaçants présents:

Martel, Shelley (Sudbury East / -Est ND) for Mr Christopherson

O'Toole, John R. (Durham East / -Est PC) for Mr Murdoch

Also taking part / Autres participants et participantes:

Mitchell Toker, manager, workers' compensation unit,
workplace policies and practices branch, Ministry of Labour

Clerk / Greffier: Arnott, Douglas

Staff / Personnel:

Hopkins, Laura, Legislative Counsel

McLellan, Ray, research officer, Legislative Research Service

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ISSN 1180-4378

Legislative Assembly of Ontario

First Session, 36th Parliament

Assemblée législative de l'Ontario

Première session, 36^e législature

Official Report of Debates (Hansard)

Monday 12 February 1996

Journal des débats (Hansard)

Lundi 12 février 1996

**Standing committee on
resources development**

**Comité permanent du
développement des ressources**

Land Use Planning
and Protection Act, 1995

Loi de 1995 sur la protection
et l'aménagement du territoire



Chair: Steve Gilchrist
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
RESOURCES DEVELOPMENT

Monday 12 February 1996

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DU
DÉVELOPPEMENT DES RESSOURCES

Lundi 12 février 1996

*The committee met at 0906 in committee room 2.*LAND USE PLANNING
AND PROTECTION ACT, 1995LOI DE 1995 SUR LA PROTECTION
ET L'AMÉNAGEMENT DU TERRITOIRE

Consideration of Bill 20, An Act to promote economic growth and protect the environment by streamlining the land use planning and development system through amendments related to planning, development, municipal and heritage matters / *Projet de loi 20, Loi visant à promouvoir la croissance économique et à protéger l'environnement en rationalisant le système d'aménagement et de mise en valeur du territoire au moyen de modifications touchant des questions relatives à l'aménagement, la mise en valeur, les municipalités et le patrimoine.*

The Chair (Mr Steve Gilchrist): Good morning, everyone. The hearing of the standing committee on resources development into Bill 20 will now commence the first of our three weeks. For the edification of those speaking to us here in Toronto, the hearing times have been determined based on the number of people who inquired prior to the deadline of February 5 and made representations to speak to the committee. Accordingly, to accommodate everyone here in Toronto, the speaking time will be 25 minutes.

First off this morning, though, there will be a requirement to adopt the subcommittee report. You've all had an opportunity to read it this morning, if you didn't get a copy on Friday. Do we have a motion to adopt the subcommittee report? Barb Fisher.

All in favour? Carried.

MINISTER OF MUNICIPAL AFFAIRS
AND HOUSING

The Chair: The second order of business: It's our pleasure to welcome Minister Al Leach, who will make up to 30 minutes' worth of comments, to be followed by responses from each of the two parties. Good morning, Minister.

Hon Al Leach (Minister of Municipal Affairs and Housing): Good morning, ladies and gentlemen. I'm very pleased to open this committee's public hearings on Bill 20, the Land Use Planning and Protection Act. I'm also pleased to hear that everyone who's asked to appear before you has been scheduled and nobody's been turned away.

I'd like to take a few minutes to set the stage for your discussions over the next couple of weeks. I'd like to

begin with a general picture—the purpose of the bill, the philosophy behind it—and then I'll touch briefly on the three main components of the bill: the part that deals with the planning process, the part that deals with apartments in houses, and the part that deals with development charges.

First, the big picture: This bill was introduced to honour a commitment made in the Common Sense Revolution, a commitment to remove barriers to economic growth that have killed jobs and kept Ontario back. Before June 8, municipalities, developers and other interested parties told us the planning system wasn't working, that it was stifling economic activity. They said getting through the approval process took too long and cost too much. They also said that it kept too much planning power at Queen's Park, away from local governments that best understand local conditions.

Bill 163, the former government's planning reform bill, was supposed to let municipalities make decisions, but municipalities told us it didn't. They said changes needed to be made.

The bill you are considering here, the Land Use Planning and Protection Act, fixes these problems. It does three important things:

First, it creates a system that's faster, cheaper and more understandable, a system that's guided by clear, concise policies, policies that deal with issues that really should be under the jurisdiction of the province.

Second, it lets municipalities make local planning decisions. They are the people who best understand local circumstances.

Third, it protects the environment while clearing away obstacles to growth.

Let me just touch on some of the highlights. First, this legislation means planning decisions will no longer have to "be consistent with" provincial policy statements. Instead, they will once again have to "have regard to" provincial policies.

Let me explain why we're doing this. When decisions have to be consistent with provincial policies, it leaves very little room for municipalities to interpret provincial policies and take into account local circumstances.

Does this mean we don't think provincial policies are important? Of course not. Years of experience show that planners and decision-makers, and that includes the Ontario Municipal Board, understand the "have regard to" provision. They do take provincial policies seriously. But at the same time, we think local decision-makers must have discretion and flexibility. Kenora is not the same as Cornwall, and downtown Toronto is not the same as Grey county. Local decision-makers need to be able to meet their own community needs.

Another provision gives counties more powers to approve subdivisions. That also improves local flexibility. Regional governments already have these powers. There's no reason for the province to duplicate work already being done at the county level, and frankly, we can no longer afford duplication of any sort.

As I said a moment ago, it takes far too long to get a decision under the present system. This legislation shortens time frames for processing applications; it cuts many time frames almost in half.

Let me just mention a couple of other legislative changes that will make the system more efficient.

One change will make the Ministry of Municipal Affairs and Housing the only provincial ministry that can appeal a planning decision to the Ontario Municipal Board. The province will speak with one voice on planning matters. This will avoid the absurd situation of two or three ministries appearing at the OMB, all taking different positions and all being funded by the taxpayer.

Another will allow the province to exempt municipalities from the need to get approval of their official plans and amendments. We can also authorize upper-tier municipalities that have approval authority for local official plans and amendments to exempt those local decisions.

I see this simple process as a sign of our commitment to municipal accountability. We will soon release, for consultation, options for implementing this "exemption" provision.

There is one other legislative change to the planning process I'd like to mention. We are making a few changes designed to streamline the Ontario Heritage Act, which is administered by the Ministry of Citizenship, Culture and Recreation. These minor changes will simplify and speed up land use decisions under the Ontario Heritage Act. They respond to a number of long-standing complaints by municipalities and other stakeholders.

With respect to the broader review of the Ontario Heritage Act being done by the Ministry of Citizenship, Culture and Recreation, we recognize that significant changes to the legislation are needed. I know that my colleague, the Honourable Marilyn Mushinski, is very hopeful that she will be able to address this important issue when the legislative agenda allows.

Ladies and gentlemen, this legislation sets out the nuts and bolts of how planning decisions will be made. But ultimately, planning is driven by values and it's through provincial policy, not legislation, that the government communicates its values.

So even though it isn't part of the legislation, the policy statement released for consultation in January is an important part of Ontario's planning process. It sets out our vision of the sort of results that we would like to see on the ground. The proposed policy statement is about half as long as the existing statements. It would let municipalities make local decisions that reflect local needs while protecting the environment. For example, wetlands will continue to be protected. In a significant wetland south or east of the Canadian Shield or in the habitat of endangered or threatened species, development is not permitted.

Other natural heritage features and areas will also be protected. In these areas, development will be permitted only if it will cause no negative effects. We want these natural features protected for their long-term environmental, economic and social benefits.

The proposed policy statement addresses urban sprawl. It suggests new growth should go into existing developed areas wherever possible. It restricts development on the fringe of urban settlements. For example, very-low-density rural residential development is not appropriate in fringe areas that may be needed for urban expansion.

The proposed policy statement also asks municipalities to ensure that development is cost-effective and won't require high costs to service.

We've also heard lots of complaints from rural areas that economic development was being shut down by the previous government's policies. We believe that some development in rural areas is desirable, as long as it's cost-effective. For example, some commercial or industrial development in a rural area may support the rural economy without harming nearby urban areas.

The policy statement has been released to all major groups interested in planning. It is available from my ministry and on the Environmental Bill of Rights registry. Although the consultation on policy statements is separate from these hearings, I expect you will hear presenters talk about the policy statement and the legislation together. As part of our extensive consultation process, we will certainly take into account any comments we receive at these hearings.

I would also like to mention some changes we are making to the way we do business. Again, this is not actually part of the legislation you'll be considering, but you are considering the whole planning system, and the planning process only works as well as the administrative systems that make it go.

That's why we are making administrative improvements. These will streamline planning review and approval, reduce costs and make the system more locally responsive. For example, provincial agencies will review fewer site-specific applications such as subdivision plans and some official plan amendments. This will begin in April for regional municipalities and, over time, in other municipalities. This will strengthen local decision-making and it will enable regions to further streamline the development approval process.

While ministries will no longer review these applications, they will provide access to information, training and expertise where it's needed. Regions should be able to review applications they approve without additional costs by making use of in-house expertise and peer review.

Let me mention one other administrative improvement we are proposing. One of the most frequent complaints I've heard about the planning system is the need for municipalities to deal with several different ministries at the same time, and we're fixing that.

Where the provincial government is the approval authority, provincial reviews will be coordinated through new one-window procedures. This one-window planning service will give municipal, private and public sector clients one-stop access for provincial input, review and

appeal services. The Ministry of Municipal Affairs and Housing will be the main contact for municipal staff on planning matters and this will mean faster decisions.

By this April 1, some parts of the province, including regional municipalities, will have access to a one-window service that includes the major ministries with an interest in land-use planning. As the ministry develops its capacity to provide planning services on behalf of other ministries, this one-window service will be expanded across the province.

I'd like to turn for a moment to another part of Bill 20, the part that deals with apartments in houses. I believe that municipalities have the expertise to decide what kind of housing is best for their communities. We are restoring authority to municipalities to decide where new apartments in houses are to be allowed, what type of houses they are to be allowed in and what planning standards will apply.

The wellbeing of tenants and homeowners is important to the government. Municipalities have asked for improved ability to register units and inspect them for safety. By giving them this power, Bill 20 will enhance the safety of people living in apartments in houses.

Bill 20 contains provisions that will grandfather apartments in houses that have existed legally before the introduction of this bill. Tenants will still have the right to complain about unsafe conditions and owners can legally upgrade.

0920

The new section of the fire code that sets requirements for houses with two residential units continues to apply. Owners of such units have until this July 14 to comply with those requirements.

Another part of this bill deals with the Development Charges Act. Development charges add to the high cost of housing. In fact, the Urban Development Institute says development charges now add \$15,000 to \$20,000 to the cost of an average single-family home in the greater Toronto area. We intend to take a good look at the Development Charges Act over the coming year.

The idea will be to finance public infrastructure for growth in as fair a way as possible. We also want to reduce the cost of new housing and business construction, and we want to make sure development charges don't deter development. We'll consider and review ideas and input from all stakeholders. We intend to introduce a new Development Charges Act this fall. Bill 20 includes interim measures to allow us to get on with this review.

Some municipalities have development charges bylaws that will expire soon. Bill 20 lets municipalities extend these bylaws. In the meantime, municipalities can lower their charges, but they can't bring in new ones or increase their existing charges. Any increases after November 16, when the bill was given first reading, need special approval. This might be given, for example, where a major development is ready to go but can't go ahead without a new or area-specific development charges bylaw.

Bill 20 will also make municipalities more accountable for development charges revenues and expenditures. The way it is now, treasurers must present a summary report of development charges accounts to council each year. This bill goes further. It proposes that treasurers include

in that report all revenues and expenditures related to each service covered by their bylaw. Also, treasurers must send me a copy of the report within 60 days of it going to council.

I'd like to sum up by repeating a few points I made in December when this bill received second reading.

One very important goal of this bill is to streamline the planning process. A streamlined process will mean faster decisions. That will cut the cost of development. Construction will be able to proceed, creating jobs and economic activity. Developers won't have to sit on valuable land, paying high carrying costs while waiting years for a decision.

At the same time, planning and development decisions will be made by those closest to the community. We will stop looking over their shoulders. We will let them get on with the job of making the right decisions for their communities. Provincial interests will be protected by the policy statement and through early involvement by provincial staff in developing municipal planning documents. The revised policy statement recognizes the diversity and the needs of municipalities. It will ensure that good development projects can move quickly.

Over the next couple of weeks, this committee will hear from many people and organizations. Some may express concerns about environmental protection. I can assure you that we are not backing off environmental protection. As the Premier has said, we can have the toughest environmental regulations in North America, but why does it have to take three years to say yes or no? Bill 20 will change that.

Bill 20 will put in place a system that delivers good planning, good decisions, in an efficient, cost-effective way.

I'd also like to point out that the parliamentary assistant for Municipal Affairs and Housing, Ernie Hardeman, will have carriage of the legislation as it goes through committee, so that all the members are aware of that.

The Chair: Thank you, Minister. As mentioned previously, the two opposition parties will each have up to 30 minutes to respond. We'll start with the official opposition.

Mr John Gerretsen (Kingston and The Islands): Just so I'm clear on it, are we allowed to ask the minister questions at this stage? Is that what you're suggesting? That's the way we worked it on the Bill 26 committee.

The Chair: That's certainly within the purview of your 30 minutes.

Mr Gerretsen: Thank you. I have a number of questions. I concur that one of the problems with the whole planning area has always been the question of timing as to how long it takes to get whatever is before a council approved. It hasn't got that much to do with the actual time limits that are set out in the act, but is more from a practical viewpoint as to how long it actually takes for a council to react, a planning staff to react, the various ministries to react etc. Anything that can improve that system, having built in and made sure the safeguards are still there to ensure that the general public has its say, is certainly something we can support.

The question I have, though, is that in your Common

Sense Revolution, if I recall the document correctly, you said that you were going to scrap Bill 163 outright. It almost seems to me as if you've taken the Liberal position that was taken during the campaign that we're going to make some changes to Bill 163 rather than scrap it outright. Would you agree that you're not really scrapping the entire bill, but you're just making some changes to things that you felt weren't workable?

Hon Mr Leach: No, our position has been that we always intended to scrap those portions of Bill 163 that didn't work, and that's what we've done. We've taken a look at all of the pieces that we were convinced could be improved or changed and we have scrapped those portions, as we said we would.

Mr Gerretsen: I take it then that the statement that was contained in the Common Sense Revolution that Bill 163 would be scrapped should have said that some sections of 163 would be scrapped. There was an error in that particular document.

Hon Mr Leach: I wouldn't concur with that. I think we're doing exactly what we said we were going to do.

Mr Gerretsen: Let me ask you this. Bill 163 hasn't been in operation that long, and in dealing with the whole notion that decisions have to be consistent with provincial policy or have regard to provincial policy, has the ministry actually conducted any studies of any applications that have come in since Bill 163 has been proclaimed where that has been a problem? From your own comments in your speech here, you indicated that really the OMB quite understands what provincial policies are intended to do in the whole planning process, etc, and I'm trying to get to the idea of, has it actually been a problem since 163 has been in effect?

Hon Mr Leach: It's irrelevant really, because it's a total change in philosophy. We believe that decisions on planning should be made as close to people as they possibly can. The closer to local municipalities you can get where basic decisions are made, the better the decisions will be. "Be consistent with" is a top-down, Queen's Park approach that says, "You'll do as we tell you." "Have regard to," in my view, says, "Municipalities, you're responsible for the planning decisions in your area, but please have regard to the total provincial picture." It's a substantial change in philosophy.

Mr Gerretsen: How can you ask a municipality that's mainly concerned about how it's going to govern within its own jurisdiction to have regard for the entire provincial scene, as you just stated?

Hon Mr Leach: We put out a policy statement that outlines the important issues that the province is concerned with. As I mentioned, municipalities are not the same around the province. I think that Kenora is a whole lot different from Kingston and that duly elected municipal councils or regional councils or county councils are those that are elected to carry out that planning function, and they should do that, but they should do that having regard to the overall provincial scene.

Mr Gerretsen: Just so that I understand it correctly, they have to take the overall provincial scene into account, but if they then want to disregard it because of their own local situation, they can do so in their planning documents.

Hon Mr Leach: They have to have regard to it, but

we want them to take local conditions into consideration. We think local conditions are important. We think there are key provincial areas that we want all municipalities to have regard to. It has worked well in the past and I believe it'll work very well in the future.

0930

Mr Gerretsen: Can you outline some of these key areas that every municipality ought to have regard to?

Hon Mr Leach: They're in the policy statements. The policy statements have been put out for consultation.

Mr Gerretsen: In other words, those statements aren't complete as yet, they're out for consultation and they could change from time to time. Is that what you're suggesting?

Hon Mr Leach: Obviously it's kind of a chicken-and-egg situation. Do you have the legislation? You have to have the legislation so that you can determine what the policy statements are going to be. We've drafted a policy statement and we sent it out in January for all of the stakeholders to have an opportunity to review and comment back on. Those comments are due by March 4. I think that gives everybody an opportunity to review the legislation in conjunction with the policy statements so that they can make informed decisions on where we want to go.

Mr Gerretsen: All right, and let's say those policy statements get adopted and municipalities have regard to those. What happens in the future, though? Is the suggestion that the province can at any time unilaterally change some of these provincial policy statements without any input from the general public or municipalities?

Hon Mr Leach: Obviously, provincial policy statements can be revised at any time, but they would not be revised unless there was consultation with the public and the stakeholders involved, just as we're doing at the present time.

Mr Gerretsen: I'm curious with respect to a comment that's on page 4, about the sixth paragraph or so, where you say:

"We also heard lots of complaints from rural areas that economic development was being shut down by the previous government's policies. We believe that some development in rural areas is desirable, as long as it is cost-effective.

"For example, some commercial or industrial development in a rural area may support the rural economy without harming nearby urban areas."

I assume that we're not just talking about the potential of harming urban areas, but also the potential of harming agricultural areas. Is that just an oversight? I'm curious why that statement is in there the way it is.

Hon Mr Leach: It takes both into consideration. Obviously, you're not going to allow development in an urban area that has detrimental effect on prime agricultural land, but you also wouldn't want to allow commercial or industrial development in a rural area if it was going to have a detrimental effect on a nearby urban area that perhaps already has serviced lands etc, etc.

Mr Gerretsen: The next question deals with two paragraphs just below that where you say:

"I'd also like to mention some changes we are making to the way we do business. Again, this is not actually part of the legislation you'll be considering. But you are

considering the whole planning system."

I guess what I'm getting to is that it reminds me a little bit of the Bill 26 debate, to the extent that a lot of people liked the title to it and what they perceived to be the thrust of the legislation. It's the same thing here that there seems to be—I'm sure that the development industry, for example, thinks it's a great idea to sort of get things moving along etc and yet those particular process items are not really dealt with in the legislation at all. If you felt so strongly about it, why wouldn't you include that in the legislation?

Hon Mr Leach: There are a couple of instances that I think you're referring to here; one is the one-window approach to government, and the other is the exemption. I think that one window is something municipalities at all levels would encourage. One of the largest complaints we've had is having to go from ministry to ministry trying to find out what the overall government policy is going to be. What we're saying is that it will be one agency's responsibility, one ministry's responsibility to make sure that the provincial government has its act in order.

Mr Gerretsen: I can see that and certainly the one-window approach I think is of benefit to all, to the extent that everybody will know who the key player is and who in effect you go to if something isn't working out. But how about the actual time periods it takes to approve various processes? I know we've got time periods of 30 days being cut back to 20 days and that sort of thing, but that's not the real problem.

From a practical viewpoint, no developer will take his council to the OMB because it hasn't reacted to something immediately. They will usually want to play ball for a certain period of time, because they don't want to jeopardize the council's attitude towards their development. The same thing when something comes within the ministry. I know from past experience it has sometimes taken three to six to nine months to get, let's say, a subdivision approved.

What plans or processes are you putting into place within the ministry so that people will know where they stand quicker than they currently do? Sometimes it seems to the general public and to those people who are interested in a particular development that these files sit on people's desks for months and months and months and nothing happens to them, and you better not complain about it too much or else it may even take a longer period of time. What I'm getting at is, what's happening within the ministry to ensure that those processes will actually move along at the rate at which business would do its business?

Hon Mr Leach: What we're doing is we're coordinating the activities of the other ministries. This has been a large part of the problem, as you've pointed out, of getting a subdivision approved, taking six, seven, eight, nine months, sometimes even longer, because of having to approach different parts of the provincial government, and files sitting on one ministry's desk until they are convinced that another ministry has looked at it. The responsibility of the Ministry of Municipal Affairs and Housing will be to coordinate the activities of other ministries to ensure that doesn't happen. The whole thrust

is to streamline the process and eliminate those unnecessary delays.

Mr Gerretsen: What I'm asking you is, what administrative procedures have you put into place within the ministry itself whereby in effect the other ministries will have to react or make comment on particular proposals a lot quicker than they have for generations in the past?

Hon Mr Leach: There is a deputy ministers' committee that has been established to develop the protocol of how various ministries will respond to the Ministry of Municipal Affairs and Housing. That process is in place at the present time and is being further developed.

Mr Gerretsen: Are you prepared to share that process with the Legislature and the general public? When people deal with government, their main complaint is that it takes too long for people to react to things.

Hon Mr Leach: Obviously, we are. The whole process is so that the municipalities, the general public, all other agencies in government know what the process is. When the deputies' committee has its protocol established—they're in the process of doing that at the present time—it will certainly be shared with all of the stakeholders, all of the players, all of the municipalities and all other agencies of government.

Mr Gerretsen: Just a couple of other comments. I don't know how much time I've got left. Dealing with the housing situation, the basement apartments etc, they were certainly a major problem across the province and a very difficult thing to deal with. I think the last government dealt with it in a realistic way. We have thousands of these units, and you're either going to put people out in the street or you're going to legitimize them at some point in time.

I find it very strange for a party that is very much in favour of private property rights, as certainly your party has been over the years and in your Common Sense Revolution, that now you would allow municipalities to once again step in and tell a man or a woman whose home has always been regarded as their castle—and under the current law they can do with it what they want as far as establishing a second unit in the building is concerned—you're now basically saying, "If your municipality feels that it's not appropriate to have basement apartments or second units in large buildings," for example, "it can outlaw them," not the existing units but any new units. Doesn't that run contrary to the notion that a person should be able to do with their own property what they want?

Hon Mr Leach: What we're doing is putting the authority, the autonomy and responsibility to the municipalities, where we believe they belong. I don't think that Queen's Park should sit here and say that in the city of Timmins second units are allowed as a right without taking into consideration any effect on the community, without taking into consideration any effect on your neighbours or any inconvenience they might face, but just as a right you can do that.

It has been proposed that a minor variance be taken all the way to the OMB, yet you seem to be going to the other end of the spectrum by saying, as a right, you should be able to build a second unit on a house without taking into consideration what kind of havoc you could

be creating for your neighbours.

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Mr Gerretsen: No, Minister, I'm not saying anything at all. I'm just questioning you as to your whole party's philosophy. In this particular case, you seem to be limiting a person's right to do what they want with their property when over the years I've heard nothing but statements about how government should get off people's backs. It seems to me that you're allowing at least municipal government to get on people's backs again as far as their own housing is concerned.

Hon Mr Leach: I think municipalities are the right level of jurisdiction to make those decisions. I know in the city of Toronto, for example, they've been very, very liberal in their approach to second units. That's small-liberal.

Mr Gerretsen: The other question I have deals with the Ontario Municipal Board and the question of appealing decisions relating to minor variances. Although I suppose in principle it would sound like the right thing to do, there are also situations, particularly in smaller municipalities where, as a result of personality conflicts or whatever, someone other than a municipal council ought to be the final arbiter, as it were, to decide these matters.

By eliminating minor variances from the OMB completely, you in effect are denying, it seems to me, situations where there could be these kinds of personality conflicts or whatever. You're not allowing somebody else to make the final decision when for whatever reason the council and the individual who's applying, or the people who are opposed to it, cannot agree to an equitable solution.

Hon Mr Leach: Municipal councils, local councils, are duly elected by the population to carry out their responsibilities. I think they do that quite well. Just by the very nature of the term itself, minor variance, if a duly elected local council doesn't have the right to make a decision on a minor variance, then I don't know what else they could be responsible for if they're not perceived to be responsible enough to deal with that type of issue. It seems to me we give them far larger responsibilities to deal with.

Mr Gerretsen: Let me suggest to you what I think the real problem is in that regard, particularly where you've got a minor variance of a six-inch overhang of a building or a side yard requirement or whatever. The problem has not been the fact that the final arbiter is the OMB; the problem, in my view, has been the fact that once the matter was referred to the OMB, it would normally take—and I realize the time periods have been speeded up over the last little while, but it would simply take too long to get that matter resolved.

It seems to me that one of the things you may want to consider is to set up a small group within the OMB that could be dealing with minor variances in a very quick and expedient fashion. I realize full well you don't need the same length of preparation time for all the parties involved if you've got a major development or whatever, a subdivision, that has been referred to the OMB, or you've got a situation where really quite often it's one neighbour against another and for whatever reason they're

appealing.

Of course this would never come out verbally, but for those people who have been involved in these situations, we've all seen it happen where really the reasons why appeals are being launched in these minor variance situations have very little to do with what's actually being proposed. It seems to me if those matters could be dealt with quickly—all right, initially by council, but there are situations, I'm suggesting to you, Minister, where the council, for whatever reason, personal or otherwise, may not do the right thing.

We all make mistakes, and it seems to me to have a final arbiter in case like that which is totally removed from the situation but which can react quickly to a particular request—and it may still refuse it or accept it etc—if that matter could be handled more quickly by the OMB, I think that would resolve the problem, and I'd like you to take a look at that.

Finally, the Development Charges Act. I find it rather interesting that you're taking a look at the Development Charges Act and presumably there will be changes coming within the next six months to a year. I know this has been an ongoing area of great interest and with a great variety of opinion between the development industry and municipal councils as to what should be included in these charges.

I'm just curious, if you're doing this review already at this time, why you found it necessary to not allow municipalities to impose more stringent fees or more stringent charges than they currently have within their own development charges bylaw, which seems to run counter to the whole notion that you've been talking about for the last six months about giving municipalities more power, more authority, more freedom to act. Yet in this particular area you felt, "They can pass whatever they have and extend it, but they certainly can't impose any further charges," which in a particular municipal situation may very well be justified. Doesn't this sort of run contrary to what you've been preaching on this issue?

Hon Mr Leach: No. It's a temporary situation while we're reviewing the Development Charges Act. There is an opportunity for any municipality that feels that it has a justifiable reason for increasing its cost to make an application for approval and we would deal with it on a one-off basis. I think it's appropriate that we hold existing procedures in place—and by the way, as you're well aware, creating a development charges bylaw is a very expensive process.

What we wanted to ensure was that municipalities didn't embark on a very expensive process under one set of rules when there was a review going on that may change those rules. As a result of many of the municipal bylaws reaching a point where they were going to expire, we wanted to give them an opportunity to extend the bylaws that they have. They can reduce costs if they wish or extend their existing requirements, or, if there's a very special need, they can make a request for that special need to be dealt with, which I think is a very fair and appropriate way to go.

Mr Gerretsen: But of course you realize, if it's not paid through the Development Charges Act, whatever the costs are that the municipality incurs by this, it would

have to come out of the general taxpayers revenue fund from a municipality.

Hon Mr Leach: That may well be the case. What we're planning to do is review the Development Charges Act to try and reach consensus between developers and municipalities and all of the other stakeholders as to what's appropriate, what is fair, what is the most equitable way to deal with new development and the charges that apply to them. The Development Charges Act has been in place for in excess of five years, and I think a review after five years is an appropriate way to go.

The Chair: Thank you, Mr Gerretsen. That's your 30 minutes. We now move to the third party.

Ms Marilyn Churley (Riverdale): Thank you for joining us this morning, Minister. I have a number of questions and, I can assure you, some comments. I just want to start by asking you, given that the Sewell reforms and the new planning bill haven't had an opportunity to show any results as yet, who did you listen to, who did you consult with during your campaign and otherwise across the province, given that the act had no opportunity whatsoever to prove itself, to see where amendments might be needed etc? Why did you need to scrap the whole thing?

Hon Mr Leach: Because it's a basic difference in philosophy. We don't think that the planning process should be controlled by Queen's Park. The term "be consistent with" says, in my opinion, in our opinion, "Do as you're told by Queen's Park." We believe that municipalities should have the autonomy to make decisions on development that best suit local needs but keeping the basic philosophy of the province in mind, "having regard to" the overall picture.

It was a matter of a basic difference in philosophy. I think the consultation that was done by the Sewell commission was excellent.

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Ms Churley: But I submit to you, Mr Minister, that one of the major issues which kept cropping up over and over again during that consultation was that "shall have regard for" wasn't working, and I submit to you that the reason why this government determined to go ahead with "shall be consistent with" is just the opposite of what you're saying.

You're talking about philosophy here, and that's all very nice, but this wasn't necessarily the NDP philosophy. This was agreed to. There was of course some objection in some corners precisely because the opposite was happening in many areas, and that is, there was such confusion. And I submit to you that there will be more delay and more frequency and length of OMB hearings because of this, because if the province is to step out as much as possible, which we agree needs to be done, then don't you think that the clearer provincial policy is, within that context, the more consistency you're going to have and therefore fewer OMB hearings, the less confusion?

Hon Mr Leach: No, I don't agree at all, and I don't agree that there was consensus on the—

Ms Churley: Oh, no, I didn't say there was consensus.

Hon Mr Leach: Or anywhere near it.

Ms Churley: Certainly there's obviously some dis-

agreement in this room at the moment.

Hon Mr Leach: There were very strong views on the "be consistent with" because it is just perceived to be a ham-hammered approach by Queen's Park to control the development throughout Ontario, and as I mentioned earlier, our communities are totally different. The situation that applies in Sudbury would not necessarily apply in downtown Toronto.

Ms Churley: Well, absolutely.

Hon Mr Leach: What we want to do is to ensure that those communities have control of their destinies as far as development occurs, having regard to what the overall provincial picture is.

Ms Churley: I don't think there's any disagreement that the provincial policy needs to have the flexibility for different communities to adapt to that kind of overall view from the province. I don't think there was ever any question of that, that the provincial policy would absolutely nail down, every step of the way, the planning process for communities. That's a ridiculous suggestion, that anybody was suggesting that.

Hon Mr Leach: Well, a lot of people have suggested that that's the case, that the provincial policy statements that exist are very complex, are very detailed, and, along with having to be consistent with those policy statements, gave the municipalities little or no flexibility to deal with local issues.

Ms Churley: I just want to ask you what you meant when you spoke to the Canadian Bar Association when you said the policies themselves are weighted too heavily towards protecting the environment.

Hon Mr Leach: We felt, I think, that the protection of the environment is extremely important, and the policy statement that we have out for consultation and the legislation we're proposing strongly protect the environment. But I do believe that it was tipped a little too heavily in favour of the environment and didn't take into consideration the economic realities of continuing to develop the province in a timely fashion and an appropriate fashion.

Ms Churley: Why then would you, if you were concerned about protecting the environment—for instance, in significant wetlands, you've changed the map. Why would you take out much of eastern Ontario, which has one of the highest, or the highest, percentage of wetland resources remaining? Why would you eliminate that?

Hon Mr Leach: The Canadian Shield area is looked upon by most as being the most appropriate line across Ontario. There's a major difference in wetlands on the Shield and north of the Shield from those south and west of the Shield.

Ms Churley: So you decided that the wetlands in eastern Ontario therefore aren't as important to preserve.

Hon Mr Leach: No. You can't undertake any development that would have a negative effect on a wetland. You still have to show that any actions that you're proposing to take will not adversely affect the wetland in question.

Ms Churley: How would one have to show that? Whom would they have to show it to, since it's not on the map?

Hon Mr Leach: You would have to demonstrate that

there is no negative effect.

Ms Churley: I see. Why would you eliminate the policies that sound pretty motherhood to me, especially when words are used like "promote" the most efficient modes of transportation and "reduce" the need for the private automobile by giving "priority" to energy-efficient, low-polluting travel such as walking, bicycling and public transit? Why would you take that out of the policy statements when it's really motherhood? It's not saying one has to; it's talking about promoting it.

Hon Mr Leach: In the policy statement that's out for consultation at the present time there's still a policy statement on transportation that talks about—

Ms Churley: Well, all I know is that in this particular one it was taken out. Perhaps you can find it for me in your grey book, because I haven't—

Hon Mr Leach: There is, in transportation in the policy statement, which of course isn't part of these deliberations, but it's going to be intermingled with it, I'm sure.

Ms Churley: Perhaps I can move on, and if it's found, you can tell me where it is. Again, I'd like to ask the question on elimination of the policy—

Hon Mr Leach: It's on page 4 of the policy statement, just for your information.

Ms Churley: Can you read it? Does it read the way my question was posed?

Hon Mr Leach: "Transportation systems will be provided which are safe, environmentally sensitive, and energy efficient and which optimize the use of transportation infrastructure and services."

"Transportation corridors and infrastructure corridors: Corridors and rights of way for significant transportation and infrastructure uses will be protected."

Ms Churley: The same thing—and correct me if I'm wrong—the elimination of the policy to conserve energy, resources and building materials and in the transport of those materials by, where feasible, reusing, recycling and renovating. Do I understand that is in your policy statement?

Hon Mr Leach: It's very difficult to do that in land use policy.

Ms Churley: So is it in there or not?

Hon Mr Leach: In the existing policies?

Ms Churley: Yes.

Hon Mr Leach: In the proposed policy statements? No, it's not.

Ms Churley: So you did take that out. Why did you take it out?

Hon Mr Leach: Well, because it's very difficult to control. We felt that the policy statements that are existing in the existing Bill 163 are too restrictive. When they're there in conjunction with the "be consistent with," they're too detailed; there's very little flexibility for anybody to deal with them. We wanted to provide as much flexibility as we possibly can while still protecting those environmentally sensitive areas.

Ms Churley: I don't know who would have talked you into removing that. It just seems to make perfect sense that in this time of resource consumption—when we know that Canada is one of the highest energy users in the world, why you would take out a policy that would

promote energy conservation just doesn't make any sense to me.

Hon Mr Leach: Energy conservation doesn't necessarily fall hand in hand with land use planning. We just felt that the complexity of the policy statements that were in place under Bill 163 was far too restrictive when it was taken into consideration with "to be consistent with." It just didn't give anybody any flexibility to deal with many issues.

Ms Churley: I would suggest to you that that's one of the problems with government in the past. Government attitude towards environmental considerations, separating environmental considerations out of planning as a whole, is partly why we're in the mess we are today in terms of some environmental problems that we have. Our government tried, and it's very difficult to do, to get all ministries and all stages wherever possible to look at the environment, that it has to become a component of planning and possibly every other area where we do things. I'm really disappointed to see that your government is moving away from that concept. You say, "Well, it doesn't fit in with development." Development and the environment are so incredibly linked in so many ways that to separate it out is sure to cause serious damage to the environment.

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Hon Mr Leach: No, under Bill 20 there's absolutely no move away from environmental protection. The environmental protection aspects of Bill 20 are still extremely strong.

Ms Churley: Mr Minister, I'm glad you're being told that and it may be nice for you to believe that, but—

Hon Mr Leach: I know that.

Ms Churley: —you're wrong. When you look through your new proposed bill, the environmental protections that were set after the Sewell consultation—as you know, there was extensive consultation across the province, and perhaps for the first time the environmental point of view was taken into account. I know that some municipalities and some developers didn't like that.

Hon Mr Leach: And land owners.

Ms Churley: And in some cases land owners.

Hon Mr Leach: And private citizens.

Ms Churley: And there were some compromises made about that. But, Mr Minister, you have taken almost every single environmental protection aspect of that bill out and have filled it in with weasel words about environmental protection, but there's practically no environmental protection left in this bill. I personally find it really shocking. You gut most of the natural heritage policies. You're gutting policies to curb urban sprawl. There's a weakening of agricultural land policies. This is a bill that—it's a planning regime where practically anything goes. It's full of environmental double-speak. There's lots of nice language about environmental protection but there's nothing in it to back it up.

Another concern that I have is a real concern about public consultation. I'd just like your comments. Do you personally feel that people are going to have enough time to respond to proposals that are out there under your new bill?

Hon Mr Leach: Yes, I do. The policy statement has

been out since early January for consultation and comments by all concerned.

Ms Churley: I'm sorry, I guess I wasn't clear. Sorry to interrupt. The public notice and appeal periods are reduced to 20 days for notice of an official plan and for filing an appeal of an approval decision. So if you add a weekend into that and if you have slow postal service and maybe holidays, people could be left literally with just two weeks to review complex documents. I really have concerns about—

Hon Mr Leach: It's just a matter of filing the appeal. Usually, anybody who's involved in a development that's going through the municipal process or going on to the OMB or has a chance to go on to the OMB is involved enough that they're following the process. We strongly feel that the time frames in Bill 163 are far too long. I guess the number one complaint that we've heard from most involved, the municipalities and developers, is that the process to get through to get a decision made is twice as long as it should be. We're proposing that the time frames that are there now be cut just about in half, almost in half.

Ms Churley: I'd like to ask you a couple of questions around the Development Charges Act. My colleague from the Liberal Party touched on that. I would agree that there are some problems with that act. My concern here is that the development in suburban areas can cost a lot beyond hard services, and I'm sure this is a concern of yours as well, that somebody eventually has to pay for those services, and the possibility of taxpayers having to pick up the tab at the end of the day. Yes, we'd have cheaper housing. It will cost the developer less, it will cost the buyer less, but at the end of the day, somebody has to pay for it. I'm concerned that it could mean fairly substantial property tax hikes. I'm sure that's a concern of yours as well, and I'm just wondering if you have any ideas how to deal with that.

Hon Mr Leach: What we want to do is review the act. That's what we're proposing. The act has been in place for in excess of five years; I think it's appropriate that we look at it. I think there's going to be substantial debate as to what the most appropriate development charges process is. We'd like to ensure that all of the stakeholders have an opportunity, now that the bill's been there five years, to comment to us, to say: Does this work? Is there a better way to do it? What's an appropriate charge? We'll take all of that into consideration and write a new act.

Ms Churley: So you yourself don't have any really pre-conceived ideas at this point about what should be in it, what should be eliminated?

Hon Mr Leach: No, I'm open to discussion. My personal view is that we may have gone a little to the extreme in some cases on charges for soft services but, generally, I'm open to comment from all of the stakeholders, and whatever is deemed to be the most appropriate procedure is what we'll implement.

Ms Churley: My colleague has disappeared; I thought he had some questions. I'll keep going until he arrives back.

The basement apartment issue, when we introduced our

position on it, was controversial; I know that. One of the reasons I fear it is controversial is that there are certain municipalities that choose to eliminate the possibility of basement apartments for reasons that aren't very community-oriented, I suppose, and I'm sure you know what I mean: the ability to keep poor people out, to have the kind of neighbourhood that is not attractive to poor people. I'm really concerned about that, and that of course leads to the fear that—one of the reasons why we changed the law around that was a very clear indication that there were a lot of illegal basement apartments, that people do it anyway, especially these days.

Often people need some help to pay their mortgage. It's a way of the private sector. It seems to me to go along well with the Tory agenda. It's a way that the private sector can create affordable housing without it costing the government anything at all. One can then feel assured that the basement apartments in existence are legal and up to safety and fire standards. I'm afraid we're going to go back to a situation where there will be more danger with illegal basement apartments. Some communities will disallow it for reasons that I think you and I would both object to.

Hon Mr Leach: We're not proposing to eliminate basement apartments, we just feel that municipalities should have the right to approve one. To have the sole right to go in and build a second unit in your home without any consideration to neighbours, community or anything else, just go and build it without taking any of that into consideration, is not the right way to go. There's nothing in this legislation that stops basement apartments. All we're saying is that local municipalities should have the right to approve it. Earlier, our colleague from the Liberal Party was talking about taking minor adjustments to the OMB. You know, you take a minor adjustment all the way through to the OMB, yet we expect to give individuals the right to build a basement apartment that could create all kinds of difficulties for neighbours, for the community or whatever, without even having to say good morning. I just think that if you want to put a second unit in your home, you should apply for approval of the municipality to do that. The city of Toronto, for example, as I mentioned earlier, has had a very liberal approach to second units for many years and I'm sure they will continue to.

Ms Churley: Coming back to environmental protection, because it's a major concern of mine, "have regard to" as opposed to "being consistent with," what if municipalities do ignore a fairly major policy statement from the government that could be detrimental, and you can see clearly it could be detrimental, to the municipality? What would you do?

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Hon Mr Leach: We have the right to appeal if we're of the opinion that the municipalities completely ignored the policy statement and ignored the provincial position. We have a right to appeal to the OMB any municipal decision.

Ms Churley: Can I just ask you what role the Minister of the Environment played in drafting this legislation?

Hon Mr Leach: All of the ministries had an active part in this legislation.

Ms Churley: This legislation impacts significantly on

the environment. Can you be specific about what you see as environmental protection in this bill? What would you say if you were asked, what's the most important environmental protection—

Hon Mr Leach: This bill isn't proposing changes to the way that we protect the environment.

Ms Churley: It absolutely is. It waters it down considerably.

Hon Mr Leach: I maintain that there are still very strong environmental protection aspects in this legislation.

Ms Churley: Like what?

Hon Mr Leach: On public notice. We still have the same protection of wetlands.

Ms Churley: No, you don't. You're misled if you think that, by staff. You don't have the same protection. All of that protection has been watered down, and you will hear more and more of that as we progress. I'd like to ask you—

Hon Mr Leach: We're still saying that you can't do anything with wetlands or any of the other environmental aspects if it has any detrimental effect on the issue at hand, whether it's a woodlot or whether it's a wetland or anything else. If it has a detrimental effect, then you cannot do anything with that.

Ms Churley: I will say that it'll be proven to you and to this committee over the course of these hearings that the environmental protection aspects of our bill have been significantly watered down, that it's going to have some very serious implications in terms of protecting the environment. If you're convinced of that, are you willing to reinstate some of the environmental protection aspects that have been taken out.

Hon Mr Leach: I guess one of the things that we've taken out is the word "all" in "all uses of wetlands," because if you eliminate all uses of wetlands, nothing can happen at all, whereas if you keep the "any uses" aspect in, it gives you the right to keep anything that would be detrimental to a wetland out, but some existing uses may be acceptable. There have been uses of wetlands, for grazing cattle or whatever, for years. By having the word "all uses" you have to stop all of that, and we just didn't think that was appropriate.

Mr Howard Hampton (Rainy River): I want to ask you about the one-window approval authority. And I apologize, I wasn't here for some of this. I was here for most of it.

What is going to happen, let's say, where you've got a development proposal that involves development near significant natural environment features and the Ministry of Natural Resources, let's say, raises an objection, but it's the Ministry of Municipal Affairs and Housing that I take from this has the final say?

Hon Mr Leach: We're there to coordinate provincial positions, not dominate them. This is very similar to what your party wanted to bring in on one-window shopping on Bill 163, and apparently it didn't get it. It's a coordinating function rather than a control function. If there are important environmental issues or agricultural issues, all of the expertise from those various agencies would be brought forward to the OMB, but we would like to go with one coordinated provincial position rather than having three or four provincial agencies presenting

different positions to the OMB, all at the taxpayers' expense, dragging on the process far longer than should occur.

Mr Hampton: You're saying it's strictly a coordinating function, so therefore if the Ministry of Natural Resources, let's say, has a significant objection, if it feels fundamentally that the development proposal will have a negative impact on those natural environment features, the Ministry of Natural Resources would itself be able to make public its criticisms and its opposition?

Hon Mr Leach: As I said, we want to coordinate the provincial position, we want to show leadership on it. There is a provision to exempt any agency and allow it to go to the OMB if we choose to, but I think it's important as a province and as a group of ministries that we take all of the positions of the various ministries into consideration and form a position before you go to the Ontario Municipal Board.

Mr Hampton: That's what I'm trying to determine here. What does "coordinate" mean? It means one thing if the Ministry of Municipal Affairs makes public the views of, let's say, MOEE or the Ministry of Natural Resources on a particular development proposal. In other words, if MNR's objections, its concerns, its criticisms are made public, I guess I could accept that definition of "coordination," but if it means that MNR's views, the ecologists, the biologists, the people the province hires to look after the natural environment, to know about these things—if it means they can't voice their views, if it means that MNR's position doesn't get heard, then I think "coordination" here is being used in a way that most of us would object to.

Hon Mr Leach: There's absolutely no intent to stifle any of the ministries on any of the issues, regardless of what it is. It's a matter of coordinating so that we're all singing out of the same hymnbook. There have been many documented incidences where various ministries have gone to the OMB with positions without having any idea what the other ministries of the province are doing. What we think is that there should be a coordinating effort to make sure that we all know what's going on before we go and extend an OMB process for perhaps months or even years because we didn't even take the time to coordinate our own position.

Mr Hampton: I think you're glossing over a significant problem here.

Hon Mr Leach: I've been there. I was a provincial—

Mr Hampton: Yes, I've been there too, and I saw instances where, for example, the Ministry of Finance thought something was an excellent idea, because the economists in the Ministry of Finance rarely ever lift their heads above Bloor Street. Then when it got out to the folks in OMAFRA or it got out to the folks in MNR or MOEE who know something about what happens north of Bloor Street, the roof caved in.

Hon Mr Leach: That's exactly what we want to do. We want to ensure, if somebody comes forward with a proposal, that we involve all of the other ministries of the province to make sure that they do have input, so that somebody doesn't show up at the OMB without another ministry such as MNR even knowing that there's a position being put forward.

Mr Hampton: So let me ask you the question again.

Will we see in the future, under this legislation and the associated policies, ministries like the Ministry of Natural Resources, the Ministry of Agriculture and Food, the Ministry of Environment and Energy being able to make their views public, their experts being called, being available, being able to take positions in opposition to the Ministry of Municipal Affairs and Housing?

Hon Mr Leach: Obviously, we're going to rely on the expertise that's in all of the ministries that you mentioned in formulating a provincial position. I would hope and I'm sure that the expertise of all of the ministries that you mentioned will be called upon at OMB hearings. What we're trying to do is to ensure that we go into an OMB hearing with all ministries of the province knowing what the position of the others are, and that hasn't been the case in the past.

Mr Hampton: And if they don't all agree? Who prevails?

Hon Mr Leach: We should work out a provincial position on any issue before we get scrapping at an OMB because we didn't know what the other guy was thinking. Certainly we should be able to work out our provincial position between ministries before we go and create great expense for the taxpayer on prolonging OMB hearings because we can't agree with each other.

The Chair: Thank you, Mr Hampton. That's the 30 minutes for the third party. Thank you again, Minister, for making yourself available this morning. With that, we will move on to hearing presentations from individuals and groups.

1020

GREATER TORONTO HOME BUILDERS' ASSOCIATION

The Chair: We're slightly ahead of schedule, but it's my understanding that the representatives of the Greater Toronto Home Builders' Association are with us already. Good morning. Again just as a reminder, you have 25 minutes available to you. You can devote as much of that time as you want to a presentation and the balance will be divided equally among the three parties for questions.

Mr Tom Stricker: Thank you, Mr Chairman. Good morning, members of the committee. For the record, my name is Tom Stricker and I'm here today in my capacity as president of the Greater Toronto Home Builders' Association. Joining me is Peter Langer, past president of the association.

The GTHBA is the voice of the residential construction and renovation industry in the greater Toronto area. We represent roughly 850 member companies involved in every aspect of residential development and building.

This year marks the 75th anniversary of the association, and we are immensely proud of our history of advocacy on behalf of the new home buyer.

Today, we're here to talk about Bill 20 specifically, but I would like to start by speaking briefly about the economy in general and the relationship between planning policy and economic development.

Peter will then speak to the details of the bill and offer some constructive suggestions for further improvement.

Just before we turn it over to you for questions, I will

conclude with some comments about the development charges aspect of the bill.

On the economy, I think it's fair to say that the people of this province have experienced some very difficult economic times over the last several years.

While it's encouraging to learn that the export sector of our economy is rebounding nicely, the domestic sector has yet to show any significant signs of emerging from the depths of the recession.

The development and building industry operates primarily within the domestic economy. It uses locally manufactured products and materials, it employs local tradespeople, and the final products are purchased by local consumers. It is by far the largest industry within the domestic economy and has the potential of generating hundreds of thousands of person-years of employment every year.

You would think that in the context of the challenging economic circumstances we find ourselves in, the public and the media would embrace anyone who would be willing to take a risk in the name of job creation. Amazingly, however, an attitude continues to persist in certain vociferous circles that development is inherently bad and that it should be prevented wherever possible, or at least taxed and regulated to the point where there are no profits left at the end of the day to reinvest. As a result of both circumstance and attitude, this industry has been devastated. I honestly can't figure out this mentality, especially today.

We know that the population of the greater Toronto area is expected to grow to more than six million people over the next 25 to 30 years. The intent of Bill 20 is to ensure that we can efficiently manage that growth while balancing the interests of the industry, consumer and public at large. And that's what planning policy is all about. The government has taken a bold step forward in the name of job creation with Bill 20. We embrace that leadership.

At this point, I'd like to turn it over to Peter to talk about some specifics.

Mr Peter Langer: Thank you, Tom, and good morning. The Greater Toronto Home Builders' Association has been active on the issue of planning reform since the establishment of the Commission on Planning and Development Reform roughly five years ago. From the initial draft through to the commission's final report and on to the consultation process on Bill 163, we have been active participants and we've been offering a very consistent message: The process needs to be streamlined and the inherent costs need to be reduced.

Over the course of your hearings, you are likely to hear a lot of concerns raised by certain what I would call selfish interest groups about how Bill 20 will destroy the environment and undermine the social fabric of the province. Nothing could be further from the truth.

Bill 163 destroyed the balance between economic and environmental interests that were reflected in the previous planning laws, while adding layers of confusing prescriptive policy and unnecessary guidelines. Here are the guidelines that were dreamed up for Bill 163. Does this look like streamlining and efficiency to you? It's well

over 600 pages of—well, it makes great bedtime reading.

Despite the spin that was put on the Bill 163 package by the commission and dutifully reported by much of the media, there never was a broad consensus of support for that legislation. In fact, after beating our heads against the wall for three years trying to convince the previous government how its proposals would dramatically increase the cost of development in this province while severely restricting consumer choice, we stood together in September 1994 with the Association of Municipalities of Ontario, the Urban Development Institute, the Canadian Institute of Public Real Estate Companies, the Ontario Home Builders' Association, the Metropolitan Toronto Board of Trade, the Ontario Chamber of Commerce and the Canadian Bar Association in opposing Bill 163. Indeed, if there was any broad consensus, it was a consensus against those measures.

The reason that we support Bill 20 is that it restores the balance between economic and environmental interests and restores integrity to the process. It will allow for good projects to go ahead in a timely fashion to meet the needs of future generations.

Please don't be misled by the scaremongering critics who will tell you that these changes will lead to air pollution, groundwater contamination, higher property taxes, urban sprawl and all the other myths that have been perpetrated in the last number of years, because while Bill 20 streamlines the process and balances competing interests, there is still lots of legislation and policy left intact to ensure that public interests are protected.

Don't forget, as was discussed previously, that all the other ministries will still be involved. We will still have provincial policy statements—they will be shorter and simpler, as we understand—and we will have public meetings on official plans, official plan amendments and zoning bylaws.

Finally, we have the local councils themselves, who are faced with the daily task of balancing the interests of proposed developments with the interests of their existing residents.

Quickly, I'd like to run through what we specifically like about Bill 20:

Enthusiastically, we support the replacement of the words "be consistent with," with "have regard to." The "be consistent with" clause, read in conjunction with the reams of policy and guidelines generated under Bill 163, was going to have the immediate effect of dramatically and arbitrarily restricting the supply of land available for development, while driving up prices in the process.

We wholeheartedly support the elimination of the requirement to hold a public meeting on a plan of subdivision. The public has always enjoyed and will continue to enjoy under Bill 20 the opportunity to provide input at the official plan and zoning bylaw stages of the process.

We support the streamlining provisions in the bill in terms of the shortened time frames proposed for various development approvals. There simply has not been enough discipline in the system up until now and we cannot afford that any longer.

There are a couple of concerns that we have that we'd

like to table with you today.

First, one of the problems of Bill 163 that remains with Bill 20 is the issue of appeals from minor variances. Prior to Bill 163, committee of adjustment decisions could be appealed to the Ontario Municipal Board. This appeal provided proponents with an impartial forum where planning issues could be argued and objective decisions reached. The first reading version of Bill 163 eliminated appeals to the board, however, by the time the bill was passed, the right to appeal minor variances had been restored.

Under Bill 20, we seem to be caught somewhere in the middle. In cases where there is no committee of adjustment, the decisions of municipal councils are final and not subject to review. Where there is a committee of adjustment which does not include a representative of council, council can review the decision or direct the board to hear the matter on a fee-for-service basis.

This seems to be an attempt by the government to have its cake and eat it too, that is, to streamline things at the OMB while appearing to provide for a reasonable right of appeal. To the extent that the backlog at the board will be reduced, there will be an offsetting logjam, we fear, at council, so we may not have gained very much.

Our main concern, however, lies in the fact that we are being denied the opportunity to get a fair and impartial review of decisions and are faced with a situation where politics can prevail over planning, with local councillors sitting as both judge and jury. This is a serious concern of many of our members, particularly those involved in redeveloping and revitalizing existing neighbourhoods. We would recommend that the ability to appeal to the board be preserved.

1030

One of the other problems that remains relates to the cutting of trees on private property. Bill 163 amended the Municipal Act to give municipalities the power to regulate the cutting of trees on private property, and this has not been dealt with under Bill 20. This kind of arbitrary power is inappropriate and creates the potential for abuse. In the extreme, it creates an incentive for land owners to cut down trees before they reach maturity, as defined in local bylaws. This provision is counter-productive and we hope that you will recommend its elimination.

Those are my comments at this point. I'd like to turn it back to Tom.

Mr Stricker: I'd like to conclude with a brief word about the development charges provision of Bill 20. The vast majority of local development charges bylaws in this area were set to expire in November 1996. Bill 20 prevents municipalities from increasing their current development charges while providing them with the power to extend their existing bylaws indefinitely pending a fundamental review of the act. I guess they can lower them, too, but I don't hear too many of them talking about that.

The industry supports the fundamental review of development charges, particularly the emphasis on higher degrees of accountability. The Development Charges Act was put in place in the midst of an unprecedented growth boom. I don't need to tell you how many times have

changed. Accordingly, it is appropriate to look at the act. We accept the premise that new growth should pay for basic, necessary services. However, let's be clear: It is home buyers who pay development charges, and as the voice of the new home buyer, we want to make it clear that new home buyers should not pay more than their fair share.

We look forward to participating in the review process. That concludes our comments today. We have kept our remarks fairly general, knowing that the Ontario Home Builders' Association and the Urban Development Institute will be providing more detailed and technical comments later this week. Thank you for hearing us. We would be delighted to answer any questions you may have.

The Chair: We have four minutes for each caucus for questions. We will begin with the official opposition.

Mr Gerretsen: I've got a question about the Development Charges Act. I assume, since you people are in the private development business, that you're free-enterprisers who believe in the market system that prevails or seems to be sort of the foundation of our North American society.

Why are you so concerned that municipalities would in effect make the charges that they could charge under this act even more onerous in a time when there seems to be very little development going on? Wouldn't you think—and I assume that you people deal with municipalities on an ongoing basis—that most municipalities want to see growth in their community rather than the community next door, that if any municipality had very onerous charges under the act, they would probably do the right thing and decrease them in any event if they wanted to have any development take place in their municipalities?

Mr Langer: That would be rational thinking. Unfortunately—

Mr Gerretsen: You're saying local councillors are not rational, is that it?

Mr Langer: They may be rational in their own minds in some cases, and it's not a problem that's common in every municipality, and certainly some municipalities have recently reduced development charges and many municipalities don't have them at all. But in some municipalities, yes, there is an anti-growth, anti-development attitude that is prevalent at council and it may be a reflection of the attitudes of their existing constituents and those charges have not been reduced and in fact were increased not too long ago. It is used as a tool to slow down the pace of development.

Mr Gerretsen: I guess I'm always somewhat concerned about the inconsistency in a lot of the development industry's approach to this. On the one hand they're saying, "Government, get off our backs," but on the other hand they're saying, "We really don't trust the local municipalities and we need your help here to protect us from the local councils." It always seems to me that there's an inconsistency there, particularly when with most of these councils, the kind of business that you're in, you're working with them on a daily basis—maybe not with the councils directly, but certainly with the people who work for the municipalities. Do you have any

comments on that?

Mr Stricker: I can comment on that. There are certain developers who want DCAs to be softer than what they are presently. There are some with the softs, as they are now, and then there are the hard services. We're all over the map on it. We're not going to deny that. But what we do say is that they are being used as a tool to prohibit development. In a lot of cases the money is being wasted. There are some funds that have overspent what they budgeted, and in fact if anybody stopped the clock right now, they'd be bankrupt.

So what we're saying is that municipal taxpayers, our future ones and the ones existing, can only afford so much and they have to pay the cost of operating those facilities, so everybody has to take a look at it again and see, do we put all these fancy rec centres in, do we put these art galleries and theatres and all the other things in that have been dreamed up over the last 10 years, or do you put it back to the municipal taxpayer—who all vote; our guy doesn't vote at that point in time—and let him decide whether that's a worthy thing for his community? That's what we'd like to see, that "necessary" be defined.

Mr Gerretsen: Just a very quick question. Would you agree with me that the main problem with respect to minor variances to the OMB is the time delay it takes for the OMB to deal with relatively minor matters and that they are different from major developments that obviously require a longer time for the OMB to deal with?

Mr Langer: I think I heard a reasonable suggestion a little bit earlier and I think the suggestion came from you. Certainly, time is one of our biggest concerns in the process at every single stage of the way. We think there should be a method that you can get an impartial hearing on the minor variance issue, and the suggestion of a special group within the OMB to provide that hearing in a timely fashion is a very reasonable one.

Ms Churley: Thank you very much for your presentation. Could you tell me how you define "certain selfish interest groups"? What's your definition of a "selfish interest group"?

Mr Langer: I think these are groups that are probably in a minority that have a particular interest. Maybe their interest is they just want to stop development. There are some we've heard from who would perhaps like to get on their bicycles and pedal backwards in time. They're not realistic and they're not in the interests of the broader community. That's how I would define them.

Ms Churley: Would you consider the Greater Toronto Home Builders' Association a special-interest group?

Mr Stricker: Let me answer that. Let me jump right in here.

I guess in a way we represent new home buyers. They don't have a lot to say right now; they're still living in rental apartments or with Mom and Dad or something. I guess we represent them. If there's something wrong with that, you know—

Ms Churley: No, would you consider it a special-interest group?

Mr Stricker: Yes.

Ms Churley: Yes, you would. A selfish one, or more there for the good of society?

Mr Stricker: No, we protect the guy who doesn't

vote.

Ms Churley: For what?

Mr Stricker: We look out for the guy who doesn't vote right now, within that jurisdiction that you're speaking to, when it comes to planning.

Ms Churley: I know it sounds facetious, but I think it's a legitimate question, because this special-interest group thing has really gotten out of hand. It seems as though anybody who doesn't agree with you any more is called a selfish special-interest group, but you yourself, you're above it all, pure. I think we have to be really careful with that. I'd just like to comment that I have concerns about that kind of polarization of different points of view and different areas of expertise.

Mr Langer: Maybe we would be better to just talk about interest groups without any designation of "selfish" or "special."

Ms Churley: Perhaps that would be better.

Mr Langer: "Special" is not one that we invented. "Special" is one that has been used for political, ideological purposes for a long time.

Ms Churley: I just think that it lessens the validity of the debate, because environmentalists who have expertise in the area have really legitimate, important things to say and I think it's unfair—

Mr Langer: You're absolutely right, and it wasn't used specifically with environmentalists. There are legitimate environmental concerns. Our industry has often been cast as being somewhat anti-environmental, and I can assure you nothing is further from the truth. I don't know anybody who is anti-environment.

Ms Churley: I do, but anyway, I think my colleague wants to pick up from here. Thank you.

Mr Hampton: I've read a fair amount of material on this from different sides. In your submission here, you say, "We enthusiastically support the replacement of the words 'be consistent with' and support going back to 'have regard to.'" You take the view that this will speed things up. Some of the other reports I've read suggest that we're going to be headed back to protracted, site-specific battles each time a development application comes along, because you don't have any certainty upfront.

They're saying "be consistent with" gives you a pretty clear guideline of the test you have to meet. "Have regard to" doesn't tell you a lot about anything. Therefore, what's going to happen is, with "be consistent with," you know what you have to do upfront and you do that upfront planning, and that should result in less delay, less time.

I've read those. I've read them over a couple of times. I think the idea with those was—

The Chair: You've had your four minutes. Perhaps I could ask for a quick response.

1040

Mr Hampton: I think the idea with those was to be helpful and to give people some real guidelines. You think that going back to the old standard will actually result in less protracted hearings and disputes?

Mr Langer: Not necessarily in itself. The "have regard to" regime existed for a long time and there is a body of cases that give it very clear definition. There may have

been some rare examples of its abuse, but I think it was a system that generally worked. The "be consistent with," together with the policy statements and all of this stuff, was leading us into a regime that was going to be terribly confusing, very time-consuming and very expensive. That's really where the nub of the problem lies. We also agree that there should be some flexibility in considering these things at the local level. Every community has its own different attributes, and the policies should be read within that context.

Mr Ernie Hardeman (Oxford): Good morning and thank you for the presentation. I just wanted to go back quickly to the appeal of minor variances. You suggested in your presentation that the policy seems to be somewhat wanting to have the cake and eat it too, that in areas where there are no members of council on the committee of adjustment, the council would be the final appeal; in areas where members of council are on the committee, there would be no appeal.

I just wanted to ask, in the first scenario of the two, where no members of council are on the committee of adjustment, would you see that as an appropriate appeal mechanism as opposed to putting it to the OMB and taking a lot of time and money on all applications? Would locally elected officials be an appropriate appeal mechanism if they were not involved in the original decision?

Mr Stricker: I think the applicant or the objector, depending on who's debating the item, is too close to the council and generally they'll know them. They can't distance themselves or be, I think, fairminded generally. They'll favour one or the other. I think they should consider it perhaps, and if they can't come to an agreement, it can go to OMB. That could be considered. But we still feel that OMB has a more impartial view and is not familiar with either the applicant or the objector. Quite frankly, they could play hockey together or be friends, and that's the problem.

Mr Bruce Smith (Middlesex): I want to come back to one particular point that my colleague Mr Hampton had raised. At the outset, I would have to say I'm pleased to see that you've recognized the importance of balance between the economics and environmental interest that we're trying to achieve in this bill. As proponents of a potential development application, do you have any concern that the change in wording from "be consistent with" to "have regard to" would compromise the type of environmental considerations that you would consider in a normal planning application?

Mr Langer: Would going from "be consistent with" to "have regard to" compromise environmental concerns?

Mr Smith: Yes, if we were to change that.

Mr Langer: No. There are lots of standards, some more clear than others. There's lots of legislation that requires environmental consideration for those few people who may not have the environment at the top of their mind. I think the protection is there and it's adequate. This does bring a balance back into the system, though, so that the planning system cannot be abused by those who would cloak themselves in the guise of environmental protection while their real agenda is to just stop development.

Mr Smith: One last quick question. On page 4 you

alluded to your support for the streamlining provisions of the bill. In any way do you feel the time frames that have been established compromise the ability of a municipality to respond to them adequately?

Mr Langer: I don't think so. There is probably some concern and there may have to be some re-engineering at some of the municipalities in order to accommodate those time frames, but I think that's fairly positive. It creates a little bit of tension in the system, some discipline. It does force decisions in a more timely manner, and clear decisions, so you know where you can go from there. One of the big problems we've been having is applications have been sitting around and moving here and moving there, and time and time and time goes by. It's one of the significant differences that we have between our system here and in the United States, for instance, where we are losing a lot of employment opportunities. It's inherently costly to take five or six years to get a major subdivision approved.

The Chair: Thank you very much again, gentlemen, for taking the time to make presentations and answer questions here today.

KARL JAFFARY

The Chair: We're going to change positions here. Apparently, the next group had some confusion as to the starting time. Fortunately, we have the subsequent presenter, Mr Karl Jaffary, and I see you have an associate as well, Katherine Latimer. Thank you very much for saving us the inconvenience of a break. Good morning. We have 25 minutes, to be divided as you see fit between presentation and questions.

Mr Karl Jaffary: Good morning and thank you very much, Mr Chairman. I have distributed a letter with the substance of my remarks, so I'll take you through that fairly briefly and then be happy to answer questions.

The first thing I wanted to say was a very, very strong congratulations to the government and to the ministry for bringing this legislation forward. I'm just surprised that such an amount of detailed work could be done as quickly as it was done. In very general terms, I find the recommendations to be extremely good. We're happy with the bill. I'm happy with the bill. I'm going to suggest a couple of things that I think could make it a little better but, overall, pass it and I'll be saying hurray. It's a lot of good moves in the right direction. That's the general thrust and the most important thing I wanted to say.

I think Bill 163 went off the track in a number of places, and rather than just restoring what it was before, you have not only got it back on track but introduced some very significant improvements. The direct appeal from a failure to pass an official plan going directly to the board rather than going to the ministry seems to me to be highly desirable, and there is a number of other instances like that which I'm very supportive of.

1050

I have said that there are a couple of things that might be improved, and the first area I want to discuss is the committee of adjustment appeals to the Ontario Municipal Board. Committee of adjustment appeals to the municipal board at the moment number about 14% of the board's

work in caseload number and only 5% in terms of the time the board sits hearing. I get those figures from the chair of the board. I'm concerned that for that amount of time-saving, really, all appeal rights will be lost, and in some circumstances all appeal rights could be lost. If a member of a municipal council is appointed to the committee of adjustment, that means there's no appeal. Municipalities, as we speak, are thinking about appointing members who will never attend any of the meetings, and that will mean there will be no appeal right and they won't have to worry about it. That seems to me to be unfortunate.

On the other hand, the whole municipal council hearing an appeal is in some cases going to be quite workable. I think largely here of smaller municipalities and rural municipalities. I have no problem about the municipality taking that function on to itself when it wants to. I think, however, that trying to ask a municipal council in a large municipality to conduct appeals is not going to be workable. You won't be able to comply with the rules of the Statutory Powers Procedure Act appeal. An appeal from a committee of adjustment on a major density matter can take a full day, can easily take several days. When you get a council like the city of Toronto, with 16 members used to operating in a forum not unlike your own where people can wander in and out, but unable to do that on an appeal—everybody would have to be there for all of it—you're either going to be putting the council under a great deal of strain or trying to ask appellants to move their cases forward more quickly than perhaps is appropriate.

I like that idea in the bill of councils being able to refer the matter to the OMB and of councils having to pay for it if they refer it to the OMB. That seemed to me perfectly sensible. If it's the council that has passed this bylaw that is difficult to live with, perhaps it's the council that should pay for the hearing. I was taught many years ago by the city solicitor in Toronto that the purpose of the zoning bylaw was to make sure that no one could actually build anything without getting council's specific approval. If a municipality uses the zoning bylaw that way and that gives rise to appeals, perhaps the costs of the appeal should be borne by the municipality. But my suggestion is that the municipal council should either hear the appeal or it should refer it to the OMB at its own cost, but it should do one of those two things. The option of having a member of council be a member of the committee of adjustment, with no appeals, seems to me inappropriate.

Even Bill 163 talked about eliminating appeals from committees of adjustment, and a number of people in the municipal bar said, "That just means that instead of going to the committee of adjustment, we'll all have to apply for a zoning change." There is some concern about that. You get an appeal from a zoning change, and the expeditious and useful work that committees of adjustment now do, it seems to me, should not be sacrificed and have people seeking zoning bylaw changes that will be more complex and more time-consuming, if that can be avoided. But I think we do need to give a right of appeal.

The second area I want to discuss with you is the time

that is frequently consumed in fulfilling the conditions of subdivision approval, and I think time that need not always be spent. In some municipalities, particularly regional municipalities, it is a practice on the part of the regional municipality of being unprepared to even address the fulfilling of conditions of approval until all the other conditions by the area municipalities have been fulfilled, and the area municipalities' conditions will often involve the posting of security for the construction of underground works and things of that sort.

A client for whom I regularly appear has had millions and millions and millions of dollars in letters of credit posted with local municipalities in circumstances where he cannot get the regional municipality to even address the drafting of the agreement that will be a condition of final registration. Here's the regional municipality really getting in the way, and I suppose I should be addressing them rather than you. I quite agree with the thought that municipalities should be masters in their own houses, but the regional municipalities have not been helpful in moving registrations along quickly.

School boards have caused even worse problems from time to time. A very usual condition of a draft approval will be that the developer enter into agreements with the school board relating to the school sites that have been designated on the plan. What the agreement is is usually a difficulty in arriving at an option price and evaluation, and the process can go on for months and months and months.

With the OMB's backlog of work, you try to meet with the school board. If you then think you aren't getting anywhere with an agreement and you want to appeal that condition to the board, you look at another eight months to a year of delay, so you are pushed hard to deal with the school board, although very frequently, something that said that the developer will not build anything else on those sites for 10 years and if they can't come to an agreement the school board will expropriate the sites would be totally fair to all parties. I think everyone would rather do an agreement than have an expropriation. But it is difficult if you are leaving this power of controlling the timing in the hands of any body, and the school board has been in some cases as remiss in being concerned about the speed at which approvals come as has been the regional municipality.

In trying to find a solution to any of that as far as your bill is concerned and trying to think as well of your desire to keep local autonomy strong, the only suggestions I can come up with would involve giving the minister some right to issue discretionary directions as to how conditions should be fulfilled. One of the few, if I can put it that way, positive things we saw with the last government's administration of the Planning Act was the appointment of the provincial facilitator, who most of us found to be doing a useful and helpful job in moving things forward, obviously a job of facilitation and attempting to arrange meetings.

It seemed to me that that experience is something you might be able to build on a little. If you got to a situation where the minister had the right to issue directions, the minister might come up with a standard form of agreement on school sites and direct that people either follow

that agreement or move forward somewhat more expeditiously on their negotiations. You could certainly get a ministerial direction to regional governments that once a plan of subdivision had been approved, with conditions, it should immediately begin work on drawing the agreements that would satisfy the conditions.

It's that kind of thing I'm thinking of. I suggest no major change in the legislation to deal with that kind of thing except perhaps the possibility of ministerial direction with an aim to more rapid fulfilment of conditions. Those are my remarks. I will end as I began, with congratulations for the bill. If there are any questions or anything I can help with further, I'd be delighted to do that.

Ms Churley: I liked your comment about your old sparring partner, John Sewell. I just wanted to ask you, with the very short time, a general question. A major reason why our party, when in government, went—and we didn't go out looking for trouble, believe it or not. There was obviously a need for planning reform. We heard from all kinds of sources, including municipalities, that there were substantive problems, and we responded to that.

Obviously, there was not an overall consensus; there are people who prefer this mode. But there were problems in the past that resulted in very bad, piecemeal planning—and I think you would agree with that—including the Toronto area, as we well know. That is my concern, and that is why I have concerns. I think we're going in a negative direction here. We disagree.

Do you have concerns? For instance, in the past there has been, because of bad planning, contaminated water in areas because of inconsistent planning. That's one of the reasons I believe that consistent overall provincial policy, of course with flexibility built in for different areas, is important, to try to avoid that kind of urban sprawl and contamination of water and other problems which result from piecemeal planning. Can you comment on that?

1100

Mr Jaffary: As I recall, the terms of reference of the Sewell commission were to do two things: one was to streamline the system and the second was to essentially look at municipal conflict of interest. This was a period when you had various local councillors being accused of being involved in goodness knows what. Those were the reasons the government felt a need to act.

Ms Churley: No, no. There were more than that.

Mr Jaffary: That was what the terms of reference said. I certainly think provincial policy is an important tool and provincial policy statements are a good thing to have. They're often useful, and I think the board has dealt with them quite effectively. I know that the Ontario Municipal Board feels, and I feel, that when it confronts an environmental problem it deals with it very effectively. The difficulty always seemed to me to be environmental problems that had slipped past and that nobody had properly identified when the approvals were taking place. What Bill 163 essentially did was give that responsibility to the local government. I would have thought the local government always had that responsibility; it just hasn't always behaved with it perfectly, and I suppose it

never does.

The question of the shape of this region is something now on the government's plate. Clearly, consistency of local plans with regional government plans is an important issue, and we now finally have a regional plan in the region of York, and that's useful. But what the shape of regional government even will be, I don't know. I quite believe there should be planning at a regional level.

I remember being taught at law school that the proper area for planning is the area next-largest from the area at which the planners have most recently failed. So you keep looking at bigger and bigger areas until you get to province-wide planning, and then you go back to neighbourhood planning. All of these are very important things to do, and it's important for the planners at each level to know what their responsibilities are. Certainly something like contaminated water is a very important consideration.

Mrs Barbara Fisher (Bruce): Welcome. It seems to me that through the course of the next few weeks we're going to be debating the question of "shall have regard to" or "shall be consistent with" with certain presenters. Do you feel there's a negative impact towards environmental concerns by reverting to the process that had been used for a very long time where it relates to "with regard to" as opposed to "be consistent with"?

Mr Jaffary: I think not in the slightest. The words "have regard to" came from, I believe, the British Town and Country Planning Act of 1947. That act calls for development plans, and actions are to have regard to development plans. But those plans do not have the force of law in the same way that an Ontario official plan does. We have official plans that have the force of law, and of course everyone must be totally consistent with them; you can't pass a bylaw or do a public work otherwise.

Provincial policy statements have caused a problem, because if you have a policy statement saying "protect agricultural land" and you have a policy statement saying "foster low-cost housing," and somebody proposes low-cost housing on agricultural land, what do you do?

What you do when you have a rule of "have regard to" is essentially leave it with the decision-maker, the local council or ultimately the municipal board, to weigh these things in context and come up with a proper solution.

If what you say is "be consistent with," and then if you say "always be consistent with the environmental one rather than anything else," you will find situations that the drafters of the policy statement never intended that will be standing in your way.

It is my belief that the phrase "have regard to" has been a workable phrase. I have watched both elected officials and Ontario Municipal Board members wrestle with it, and I can think of no case where I have seen important public policy swept out the door or badly disregarded. I think it gives the test that is the most workable test.

Mrs Fisher: My second question to that: You referred in your presentation a little bit to minor variances in committee of adjustment and then to council vis-à-vis the question of whether or not it should be appealed to the municipal board.

Mr Jaffary: Yes.

Mrs Fisher: Where there's not a member of council

on the committee of adjustment, a decision can be made. It's done, and there's no appeal process. Where you go to a situation of council, you raise the flag of the possibility of the demand on time, if you will, at a council level, as opposed to the minimized demand of the full load of the OMB. Would you think it could be appropriate to have a committee of council, as opposed to all of council?

Mr Jaffary: There is a section in the Municipal Act that says that when councils are required to have a hearing, those can be held by a committee of council that then reports to the full council. I must say I haven't addressed whether this particular legislation ties in with this and gives that right, but I would find that a perfectly acceptable way for council to handle it.

I was speaking to one of the mediators on staff at the municipal board who was talking about going to smaller municipalities and how welcome it is, when he goes, that he says, "I'm from the municipal board" and everyone—ratepayers, councillors—think of him as an impartial person who can now resolve this matter. You do get into situations where the council is not viewed by some of those before it as being impartial, but I have to come down by saying either the council should conduct an appeal, and if the council is totally impartial, then you do a rezoning and go to the OMB, and I think doing it with a committee is quite acceptable, or it should go to something like the OMB. I think the OMB is all we really have.

Mr Gerretsen: In dealing with this whole issue of "being consistent with" and "having regard to," would you not agree, though, that the bottom line on it is that councils can basically disregard provincial policy? They can take a look at it and then disregard it and have their local situation in effect decide the issue.

Mr Jaffary: The question I then ask is, who's to stop us? If the local municipality decides to ignore provincial policy, what do you do about it? Do you go to the courts and try and argue before a judge that this is unlawful because they've disregarded policy? That is not usually a good thing to bring up. The courts are not much into these policy matters.

Or do you go to the municipal board, and who is it who goes? Almost all the situations I've run into that have been held up after the fact as being situations of bad planning, bad environmental planning, whatever, have been situations where everybody at the local level was in agreement and the matter sailed through without any objection. I venture that it will sail through without objection as easily with "be consistent with" as it will "having regard to." What you really want is some series of tests that will let anyone who finally comes to adjudicate on the matter decide it fairly, and I think that will almost always be a balancing case.

Mr Gerretsen: In dealing with the other issue, the committee of adjustment appeal to the OMB, would you agree with me that from a practical viewpoint the amount of time that it takes to get a minor variance matter heard by the OMB takes about as long as to have a zoning matter heard by the OMB? I'm not talking about the hearing time. I'm talking about the time between the appeal going in and the matter actually being heard by the OMB.

Mr Jaffary: That would be the case for a major one.

What the board has been doing in the last few years is scheduling a number of hearings at one-hour intervals on ones that it thinks can be resolved quickly, and the time limits are dropping quite dramatically. The board is able to get some of those on quite quickly, but delay time in getting to the board continues to be a difficulty. I wish there was something we could do about that, but I don't have an answer for you.

It's not so much the time getting to the board that's the difference with the rezoning; it's that if you apply to the municipality for a rezoning, you often go through a six—to eight-month process—in the city of Toronto, a minimum of a year—before the staff reports on your rezoning. If you apply to the committee of adjustment, you're before the committee in a matter of three weeks and it's that time you're saving.

1110

Mr Gerretsen: You've raised a very interesting point there, not only with respect to the length of time that it takes the municipality to react to a development plan but also quite often the time that it takes the province to react to a subdivision plan. Would you agree with me that the time periods as proposed in the bill to a certain extent are almost immaterial and that what you're really dealing with is, from an administrative viewpoint, the length of time that a municipality or a ministry wants to deal with the matter, which the legislation itself really doesn't address, that it's more the administrative practices at the two levels?

Mr Jaffary: That's true and the legislation can really only give you a backstop.

Mr Gerretsen: Right.

Mr Jaffary: What an applicant will frequently do is make his application—subdivision, official plan change, whatever it is—give the municipality as much time as possible to consider the matter. Then, if you think you're going to get turned down or something else, you file your appeal.

Often, the original work of putting the material in has been done by the landowner without a lot of advice. By the time a lawyer or a professional planner comes into it and finds he's being turned down, he also finds that the original application was probably not put together wonderfully. What you have to do is start again, still knowing you're going to get turned down, but at least on the second application you can then file a proper appeal.

The time limits there can be important to you, but most of the delay is generally administrative delay in the amount of time it takes to process these things. Certainly a subdivision and a rezoning take a good deal more time than a minor variance.

The Chair: Thank you, Mr Jaffary. We appreciate your taking time to make a presentation before the committee today.

SAVE THE OAK RIDGES MORAINÉ COALITION

The Chair: Our next group is Save the Oak Ridges Moraine. Everyone has their handout. Good morning. Welcome to the committee. We have 25 minutes to be disposed of as you see fit. It may be divided between presentation and questions.

Dr David McQueen: We're very grateful for this

opportunity to appear before you. Let me identify the two of us. We may have some reinforcements coming in during the period of the presentation. I'll tell you about them if that happens.

My name is David McQueen. I'm an emeritus professor of economics at York University and co-chair of the STORM Coalition. STORM is an acronym for Save the Oak Ridges Moraine. On my left is Dorothy Izzard, past chair of STORM and a long-time member. She will be speaking to some of the points that we wish very briefly to raise with you. The matters that are before you, which basically are land use planning in Ontario, have been some of the most thoroughly studied and consulted-about matters in this province in the last several years.

We had, first of all, a major consideration of what planning is all about in the Watershed and Regeneration reports of the Crombie Royal Commission on the Future of the Toronto Waterfront. Then of course we had the Sewell commission's very extensive hearings, again with a great deal of public consultation. The Sewell report, as you know, led on to Bill 163, and there again, the hearings on that bill were protracted, detailed and afforded a maximum opportunity for everyone interested in land-use planning, including ordinary citizens and developers and municipalities, and anybody else who wished to be heard had ample opportunity to do so.

We are, I'm afraid, very struck by the speed with which this accumulation of very serious research and investigation and consultation into the Ontario planning situation is effectively overturned, much of it by Bill 20.

I'd just like, by way of a brief introduction here, to read you a few passages from the concluding section of the Crombie commission's report entitled *Regeneration*:

"We are responsible for the consequences of our own actions—to ourselves and to other people, to other generations, and to other species. The ethic that justifies moving in, using up, throwing away, and moving on is no longer acceptable...."

"Our current path is unsustainable. Both our economy and our environment are under stress; we are sacrificing the future to mask the reality of the present. It is the commission's view that, done effectively and imaginatively, the process of regeneration will not only contribute to the husbanding of our resources for economic recovery, but will also give us places where unique features are enhanced rather than homogenized and where 'development' and 'conservation' become kindred ideas that bring us together."

That's one of the key messages we'd like to convey to you this morning. We do not believe that there is a set, pitched battle between economic development and the environment. The difference is only between well-planned economic development, in relation to land use and environmental considerations, and badly planned.

This is one of the principal things we'd like to say to you: Consider again how much went into these previous reports on planning in Ontario and what justification there can be for overthrowing, as this bill does, largely by omission, by subtraction, so much of the work that has gone before.

A very key part of this revision is that the wording "be

consistent with," which briefly resided in the Ontario Planning Act, has been removed and we're returned to a very ambiguous set of words—"shall have regard to." We hardly know, and I don't think anybody quite knows, what "having regard to" really means in terms of the actions which municipalities take in areas where there are provincial planning policies in effect.

The Sewell commission looked at this very closely and determined that you'd had regard to provincial policies if you hadn't simply dismissed them out of hand. "Be consistent with" is much more powerful. It means that the message which the province is sending through its policy statements is meaningful; it means that people have to do something about it. "Have regard to" has no force of that kind at all, so far as we can see.

On items 4, 5 and 6 of our brief, of which I believe you all have copies, I'd like to turn matters over to Dorothy Izzard.

1120

Mrs Dorothy Izzard: The matter of municipalities no longer needing to do a comprehensive land use plan is very worrying. It means there is no broad framework in which to plan. Instead, planning can much more easily be done on an ad hoc, piecemeal basis, which is not planning at all.

We are also concerned that in item after item in Bill 20 the notices for appeals for almost any kind of public participation have been shortened, the number of days cut from 90 to 60, cut from 50 to 20 in item after item. This I know is meant to streamline a process, but is it eliminating the kind of public consultation which could make eventual decisions much more firm? Is it adding to the problem?

The public consultation as referred to in item 6—I'm going to get a little personal here. I've never been a member of any political party. I have at election time looked to leadership qualities, philosophy and local support. Therefore, I have studied before going to the polling booth and it's always been my impression that the Conservative Party, particularly provincially, has stood for defending property rights. I am a property owner, doing it the hard way. My husband and I, temporarily working in another province, invested in Ontario, purchased a home which is now 50 years old, paid off a mortgage. I am an ordinary homeowner and I am sure there are hundreds of thousands like me in Ontario.

Does this mean that according to section 44, my neighbour can apply for a severance and receive it without my having any official information? Does it mean that my neighbour on the other side can apply for a subdivision without any notice to me? Is this really protecting the ordinary citizen who does have property rights? Just a question.

While I'm asking questions, we have the provincial policy statement. It's been well distributed, but it says that it is intended that these policies come into effect when Bill 20, the Land Use Planning and Protection Act, is proclaimed. Is there to be public consultation? If so, will it make any difference if these are to come into effect? We are not speaking to them today. We were given no such direction. But we have grave concerns about a policy statement coming into effect the minute

Bill 20 is proclaimed. Perhaps that's a question you can answer for me.

Dr McQueen: I'll just pass on to item 7. As long as I've ever been concerned with planning matters in Ontario—this is not an exclusive statement, but there have been three ministries which have had built into their mandates major responsibilities in the area of land use planning. These are the Ministry of Municipal Affairs and Housing, The Ministry of Natural Resources and the Ministry of Energy and Environment.

Under the single-window approach which is proposed in Bill 20 in the interests of streamlining processes—by the way, I would like to mention that we are by no means opposed to reducing the length and complexity and expense of many of the procedures that have been in effect in Ontario during this time. Nevertheless, it seems to us very odd that under Bill 20 only the Ministry of Municipal Affairs and Housing will be allowed to make appeals to the Ontario Municipal Board on such matters. What's going to be the role of the Ministry of Natural Resources and the Ministry of the Environment and Energy? They do have mandates which impinge very clearly on matters of land use planning. How are they going to be inputting into this overall process?

I'd widen that. I'd say the question arises not just in relation to appeals to the OMB but in relation to the whole land use planning policy that is to be implemented. We would greatly appreciate some clarity on that point.

We do expect to be making further public representations about Bill 20 and the proposed provincial policy statements as time goes on. These things have come at us very rapidly. They are very long, they are very complex and we intend to use more time to get to the bottom of things and find out more of the detail of what is proposed. I'll hand you back to Dorothy at this point.

Mrs Izzard: If you thought I had created a diversion away from the issue of the environment, that is not so. Every land use decision in Ontario affects the environment, the economy and the lives of the people of Ontario.

The issue is not the economy versus the environment. The two go together. In fact, I think we are neglecting some great opportunities for ecotourism in Ontario. It is a matter of whether jobs and prosperity will flourish best in a context of good land use planning with a long-term plan, a comprehensive plan with a vision.

Dr McQueen: Thank you very much, Mr Chairman. We're open for questions and answers at this point, at your discretion.

Mr Doug Galt (Northumberland): Thank you for a most interesting presentation and also for having concern for a natural resource such as the Oak Ridges moraine. It's certainly a very impressive piece of geography here in the province of Ontario.

Let me first assure you that this government is very committed to the environment. We're bringing in some tough standards, for everything from landfill sites on, to ensure that the environment is protected, standards that were not in place with the previous government. We're not about to bend on protection of the environment.

I also agree with your comment that we do not have to have a battle between economic development and environmental protection. They must work together. They have

to go together. I fully agree with you and indeed with your comment about ecotourism. I just noticed recently the top 10 countries in the world for tourism. Canada did not rate into those top 10, and with what we have here, we certainly should have been. It's an area we can take advantage of and not do any harm to our environment.

My first question relates to undue haste. There are 12 days of hearings. The hearings have been advertised and we're receiving every individual—group, person—who applied, as I understand it. I'm wondering how much more time we should be giving after we've advertised and we're going to listen to all groups. Do you have any comments on that?

Dr McQueen: I think one of the comments we have relates not just to time but also to the complexity and detail of this bill. Given that, more time certainly, and given also the fact that it goes in such an opposite direction in many respects from these massive, well-consulted-about documents put out by the Crombie commission and by the Sewell commission. I think just on the grounds of the mass of material that's here, a longer period of hearings would have been appropriate. I must say we appreciate the first part of your remarks, Mr Galt.

1130

Mr Galt: Thank you. The second question relates to property rights, relates to good planning, investment for future generations. I'm concerned about wetlands. We're going to protect wetlands and also the adjoining lands around them.

There are a lot of land owners, particularly farmers, who are extremely upset with the legislation in Bill 163. They were never told, they were not consulted and the land was literally taken from them with no compensation. They feel it was very unfair of the government to do that when they had paid for these lands.

Yes, we should be protecting those lands; there's no question. Maybe somebody should be prepared to pay those farmers for those lands and take them over as a park or controlled lands by the province, a municipality or groups such as your own. How would you feel if you were a farmer owning some wetlands or adjoining lands and they were taken from you, if you were never told you have no future rights to those lands?

Dr McQueen: Mr Galt, are you saying it is possible in this province for the government to expropriate land and give no compensation whatsoever?

Mr Galt: That is what has happened, sir.

Dr McQueen: It has certainly not come to our notice. Dorothy, do you know—

Mr Galt: It has to the farmers, let me assure you.

Mrs Izzard: I have been, until very recently, owner of a farm in an area that does include grade 3—that's not the word—wetlands. There was absolutely no indication that would ever be taken from me.

Mr Galt: Not taken in ownership but taken in rights to use.

Mrs Izzard: That's something quite different.

Mr Galt: That was what I was referring to: rights to use, not by title.

Mr Gerretsen: Just following up on that last question,

although you didn't raise it in your comments: When we're talking about the right to use property, if that's what Mr Galt is talking about, in effect, this act also is now telling homeowners that they can no longer use that property in order to build a second unit within their house. So there's definitely a total inconsistency by the government here as far as that's concerned. What's good for one is not necessarily good for the other. That seems to be the approach that's being taken here.

I'd like your opinion as to what you feel this notion of "having regard to" rather than "being consistent with" provincial policies means. The way I read that is that a municipality basically has to take it into account, but then if it totally wants to discount whatever the provincial policy states, it can do so without any impunity at all. Is that your understanding?

Dr McQueen: Nobody's studied this matter of the wording here more thoroughly than did the Sewell commission. I would just like to read you a brief excerpt of what they say in their final report about it:

"The current section 3"—that's before the revision—"states that all planning authorities 'shall have regard to policies.' Courts have interpreted this to mean only that a decision-making body cannot dismiss a policy out of hand. This status might be appropriate for very detailed policies, which include the ways in which policies will be implemented, but it is much too weak a status for policies that are more general in nature and do not include details of implementation."

There's further prose here which I think you might find interesting.

Certainly, in all the appeals and other things with which our organization was concerned, it was never clear to us, nor indeed to the Ontario Municipal Board, just what the hell it did mean.

Mr Gerretsen: Yes. I'd just like to make one very quick comment with respect to the subdivision that may be built on the property immediately next to you if the property is properly zoned without a public hearing. I think what's happened here is that the ministry, as it did in Bill 26, listened very carefully to what the Association of Municipalities of Ontario had to say over the last number of years and basically said, "Well, I guess we're going to give them what they want." But the one thing they totally forgot is the rights and the opinions of the general public out there, which may be quite a bit different from the opinions their own municipality may hold at any given time. Do you have any comments on that?

Dr McQueen: I not only agree with you, I have here the fact sheet—media kit issued by the Ministry of Municipal Affairs. One of the statements here is:

"Introduction: A coalition of municipal leaders, planners and developers, the people who actually use the land use planning system, say the current system hurts Ontario's competitive position." It goes on from there.

Mr Gerretsen: That's right.

Dr McQueen: This leaves us completely out.

Mr Gerretsen: About 99.9% of the rest of the people are the general public who are saddled with whatever development occurs as a result of that coalition.

Dr McQueen: I think everybody deserves a hearing on

land use matters.

Mr Gerretsen: Yes. Thank you.

Mrs Izzard: Particularly when it's a local matter.

Ms Churley: Thank you very much. Before I move to my colleague, who I understand has a series of questions, I just want to answer a couple of your questions very quickly so you know the answers.

Public meeting requirements are removed for subdivision plans and the persons who will be entitled to notice that an application has been made with—be left to set out in regulation, which of course can be changed. So that there will be some regulations on that.

But overall public notice and appeals periods are reduced now to 20 days. That means of course that decision-makers will be less well informed as to community information and concerns. So overall there's just shortened time frames and less accessibility for the public, including you, as a land owner, to have a say in what happens.

Mrs Izzard: Yes.

Mr Hampton: I want to go to your point number 7, "Unclear roles of natural resource and Environment ministries." You both, I take it from your comments, have had some experience in terms of dealing with the Oak Ridges moraine.

Mrs Izzard: Yes, indeed.

Mr Hampton: What has been the role, historically, of the Ministry of Natural Resources and the Ministry of Environment and Energy staff? What do their biologists and ecologists do in terms of evaluating proposals and so on and so forth?

Mrs Izzard: We have counted on them very much in terms of assessment, in terms of hydrogeological studies, assessment of the vulnerability of sensitive lands, the identification of natural heritage areas that must be protected. We have found both ministries very supportive and MNR particularly, locally in each of its local offices, extremely helpful in regard to the Oak Ridges moraine.

Dr McQueen: I can speak to that too. I know on a couple of hassles we had the expertise provided by the field staff of MNR. It was absolutely indispensable. They have the scientific knowledge and it would be very difficult for us to find it anywhere else.

Mr Hampton: What are your worst fears then in number 7, if we go to a single-window approach where Municipal Affairs and Housing makes the final decision or has control over what happens?

Mrs Izzard: Simply, from my point of view first, that environmental aspects will be second rate, and will be somewhat neglected.

Dr McQueen: I don't think we're necessarily against the single-window approach as such, but we'd like to be much firmer on exactly how MNR and MOEE feed into the decision-making process here and I don't think that's clear at all at this stage.

Mr Hampton: and where MNR and MOEE have real concerns about the development proposal—do you have a suggestion as to what the process ought to be so that those concerns can be made public?

Dr McQueen: How would you like to leave that question with us? That's something we'd like to discuss and perhaps come back with some ideas about it. It needs

some thinking through.

Mr Hampton: I might ask you to think about something else. MNR has about 4,500 employees now. Within the next 15 months, I understand 2,000 of those employees are to go out the door. Perhaps you could give us some indication of your views of how well equipped MNR would then be to protect some of these sensitive environmental, natural environment issues and how well equipped MNR and MOEE will be to even comment or do the analysis?

Mrs Izzard: Clearly, they would be operating at less than 50% of their present ability. We would be losing. Ontario would be losing and the environment would be losing.

The Chair: Thank you all and thank you for taking the time to make a presentation before us here today. We appreciate the opportunity to ask questions.

Members of the committee, that concludes the agenda items for this morning. This committee stands recessed until 1 o'clock.

The committee recessed from 1140 to 1302.

ONTARIO SEPARATE SCHOOL TRUSTEES' ASSOCIATION

The Chair: Good afternoon, all. Continuing with our hearing on Bill 20, the planning act, the first group this afternoon is the Ontario Separate School Trustees' Association. Good afternoon, gentlemen.

Mr Patrick Meany: Mr Chairman and members of the standing committee, my name is Patrick Meany; I'm president of the Ontario Separate School Trustees' Association and a trustee of the Dufferin-Peel Roman Catholic Separate School Board. With me are Patrick Daly, our first vice-president, who is also a chairman of the Hamilton-Wentworth RCSS Board; Patrick Slack, our executive director; our deputy executive director, Earl McCabe; and Ed Gera, planner for one of our member boards, Hamilton-Wentworth.

The Ontario Separate School Trustees' Association represents 53 Roman Catholic separate school boards from all regions of Ontario. These boards provide Catholic education programs and services to nearly 600,000 students.

The Ontario Separate School Trustees' Association has reviewed the policy statements published by the Ministry of Municipal Affairs and Housing and Bill 20. In the context of the Land Use Planning and Protection Act, the legislation known as Bill 20, OSSTA wishes to provide this committee with the following observations and recommendations.

Under the Education Act, RSO 1990, school boards have the authority to select and acquire by purchase, lease or expropriation school sites within their area of jurisdiction. School boards are required by the Education Act to "provide instruction and adequate accommodation during each school year for the pupils who have a right to attend a school under the jurisdiction of the board," subsection 170(6). This obligation is not a matter of discretion.

Each school board provides this ministry with a multi-year capital expenditure forecast which outlines the board's capital projects. Most boards rely heavily on

ministry money to finance their capital projects. In most cases, funding of these projects comes after residential projects are built and occupied; in some cases, this may be more than 10 years later. Meanwhile, the board must accommodate new students in portables or bus them out of the area.

Policies and acts pertaining to land use have a direct impact on the operations of school boards. The proposed streamlining of the planning process would result in an increase in residential development that would only intensify this problem. School boards would be constantly trying to catch up, even more than now, to meet the pace of development. What is necessary is improved cooperation and coordination among the various ministries, local governments and school boards.

In the past, school boards in most jurisdictions have had input in various stages of the planning process—official plans, amendments, zoning bylaws and plans of subdivision. Urban and rural municipalities have consulted boards on matters that pertain to education. Cooperation between these two local elected bodies and their administrations has been to the community's benefit.

More recently, this pattern of consultation and cooperation has been broken. In some cases, school board have not been consulted on zoning bylaw amendments that increase the need for school facilities by increasing residential densities. In other cases, plans of subdivision have been approved over the objections of school boards. This occurs because the existing act makes reference only to "school sites" and ignores the fact that educational facilities will not be constructed for a number of years. The school servicing the area quickly becomes overcrowded and is unable to accommodate the additional pupils.

This is a disturbing trend which must be stopped. What accounts for the trend? Part of the explanation is in the appetite for land development by municipalities. The other part of the explanation is found in the fact that the Planning Act has relatively few references to educational matters. For example, an official plan must have regard "to the equitable distribution of educational, health and other social facilities." An official plan must have regard "to relevant social, economic and environmental matters." It is clear that the legislation intends the provision of education to be part of the planning process.

Since 1977, the Planning Act has been reviewed by two commissions and the present Ministry of Municipal Affairs and Housing. Both commissions have expressed the need for the Planning Act to address "issues of an educational nature," in particular, sites and school facilities. We have given some detail on this on pages 3 and 4 of our brief, with relevant quotations, including one from the government of Ontario, agreeing with the recommendations of the Planning Act Review Committee.

There exist provisions in the Planning Act for the dedication of land for parks, 5% or cash in lieu, and for widening of highways. Bill 20 will allow for the conveyance of land for public transit rights of way, in clause 24(2)(d)—all of this at no cost to the municipality or provincial agencies.

School boards, however, are treated differently. School sites are designated at the official plan stage—secondary plans. The municipality, by designating land for school

purposes, has fulfilled the requirements of the Planning Act and proceeds to approve plans of subdivision in the area. Often, the land has not been purchased by the school board because the Ministry of Education and Training has not approved the purchase of land nor the construction of a facility to accommodate the growth. The result is that the existing facilities are overcrowded, with play areas occupied by portable classrooms. As more areas are developed, the problem increases. Elementary school pupils are transported, at great expense to the board—and the taxpayer, of course—to schools removed from the neighbourhood where the children reside. It is worthy of note, and a concern, that some students living in urban areas have received their total elementary education in a facility located miles away from their homes.

The problem is twofold:

(a) The approving authority approves plans of subdivision based only on the fact that land has been designated for school purposes. The act is silent regarding the adequacy of school facilities.

(b) The Ministry of Education and Training has not allocated funds to purchase the land and construct a school to service the area.

1310

The only direct reference to school boards in the existing act occurs in section 51, which provides:

"In considering a draft plan of subdivision, regard shall be had, among other matters, to the health, safety, convenience and welfare of the present and future inhabitants of the local municipalities and to the following,

"(a) the effect of development of the proposed subdivision on matters of provincial interest as referred to in section 2;

"(b) whether the proposed subdivision is premature or in the public interest;...

"(j) The adequacy of school sites."

Note that clauses (c), (d), (e), (f), (g), (h), (i) and (k) do not apply to school boards.

The flaw in the current approach to land use planning is that the process concentrates on the provision of hard services, such as water, storm and sanitary sewers, roads etc. When hard services are available, development usually proceeds. The provision of soft or human services, such as education facilities, are not usually given the same weight.

The position of the Ontario Separate School Trustees' Association is that land development is premature where social infrastructure—the soft services—is not available.

I would ask Mr Daly to continue from here.

Mr Patrick Daly: This submission summarizes the changes to the act and provincial policies. The reform—Bill 20—proposes to streamline the approval process for official plans, their amendments, zoning bylaws and plans of subdivision. In certain cases the consultation period is reduced from 180 days to 90 days, as outlined in subsections 22(8), (9) and (10). The decision regarding plans of subdivision can also be made simultaneously with the decisions regarding official plan amendments.

This streamlining of the process will make it more difficult for school boards to respond. School boards will not have sufficient time to review the application and

comment on it. We go on to explain reasons for that.

Local municipalities must also take into account the concerns of school boards in approving official plans and their amendments, plans of subdivision and zoning bylaws. Our brief outlines how the interests of school boards can be safeguarded through clear and concise provincial policies and changes to Bill 20.

Regarding consultation, the existing act and Bill 20 give the approving authorities the power to consult with the public bodies that they feel may have an interest in the application. They are therefore an integral part of the planning process. Local school boards are required by law to provide education to students generated from new development or redevelopment, so it is also logical that any planning issues or proposals affecting residents or future residents of an area require their input.

Municipalities circulate official plans and their amendments, zoning bylaws and plans of subdivision to their departments, that is, traffic, roads, building, engineering, parks and recreation. It should also be mandatory that school boards be consulted on all planning matters. It is through this process that school boards will have the necessary input.

Therefore, OSSTA recommends that the following amendments to the sections of the Planning Act and Bill 20 be revised to require that school boards be consulted on all planning issues; namely, subsections 17(21) and (34), subsection 34(15) and subsection 51(23).

When blocks of land are developed or redeveloped, school boards are not necessarily asked for comments. Traditionally, school boards have never been consulted regarding a development under site plan control. However, certain design changes to the layout of the complex could assist school boards in providing better and safer service to the children of ratepayers. We go on in our brief to outline one specific example of a town house development where, had school boards been consulted, it would have been a much safer transportation means for students and would have made the process much simpler.

In this regard, therefore, OSSTA recommends that school boards be consulted on all residential developments under site plan control.

When reviewing plans of subdivision, the approving authority should take into account the adequacy of school sites and facilities. As interpreted by some authorities, the current Planning Act provides that where land is designated for a school site, the requirements of the act have been met. The plans of subdivision are then approved and development proceeds. What must be considered, however, is whether the school board owns the land or whether a neighbourhood school will be constructed and operational when the area is completely developed.

School boards have argued that the availability of school sites and facilities should be taken into account when reviewing plans. The approving authority has the power to stage developments so that growth is orderly and controlled. However, local municipalities do not consider the availability of school facilities when developing their staging plans since they are of the opinion that they have no real legislative obligation to do so.

The focal point of urban neighbourhood plans is the

elementary school and parkland. The act has made provision for parklands to be dedicated or cash-in-lieu payments to be made by the applicant as a condition of subdivision approval. Development cannot proceed until that condition has been met. School boards do not have such power, but in lieu of this authority the adequacy of facilities as well as sites should be a part of the condition when reviewing a plan of subdivision.

If the existing school facilities are inadequate or do not exist, a review of the plan of subdivision should take into account the ability of the local school board to provide the necessary educational services.

When former commercial or industrial areas are redeveloped for residential use, that is, intensification, existing schools which service the area could experience overcrowding. Although the site may be adequate, the facilities might require upgrading and expansion in order to accommodate the growth from the redevelopment.

OSSTA therefore recommends that clause 51(24)(j) of the Planning Act be amended to add the words "and facilities" after the phrase "the adequacy of school sites."

Subsection 51.1(4), determination of value: Although land is designated for school purposes at the secondary plan stage, the Ministry of Education and Training will only fund site purchases after a significant portion of the neighbourhood is developed. The price paid by school boards has ranged from market value to highest and best use. It is not in the public interest for a developer to use the planning process to upzone a required school site and create value which then must be purchased by a school board at the newly inflated price. If a formula for the purchase of school land was part of the act, then the purchase of property would be made easier for all parties. The province, which as you know funds a majority of the purchases, would reduce its costs by paying a more equitable price for the land.

In this regard our association recommends that where a school board acquires the land zoned for school use, notwithstanding the provisions of any other act, it is entitled to acquire the land at its value determined as of the day before the day of the draft approval of the plan of subdivision or as of the day before the day of the passing of the bylaw, as the case may be.

The 5% dedication of land for parks or cash in lieu is based upon the total area of the plan of subdivision. It does not take into account the possibility that a portion of the plan could be designated for school purposes. The act is unclear as to whether or not lands designated for public use should be included in the calculations for the 5% dedication or the cash. Clarification is required so that applicants, public bodies and municipalities are aware of how the calculations are done.

Mr Meany: Thank you, Patrick. That concludes our formal presentation, and we are prepared to try to answer questions.

1320

Mr Sean G. Conway (Renfrew North): Just two quick questions. First, on page 8 of your submission, Mr Meany and colleagues, do I take it that you really mean to suggest there that before any plan of subdivision is finally approved, there now ought to be some serious consideration of the adequacy of existing school facilities

in the immediate area affected?

Mr Meany: The intensification part?

Mr Conway: That's right.

Mr Meany: Yes. There may be something there already, but it may not be adequate because of the additional numbers coming in.

Mr Conway: In areas of suburban growth is it your view that the same ought to apply there?

Mr Meany: Yes, because it's no good having land there, even if you could buy it, if you haven't got a building on it. As you know, boards don't always have the money to buy that—our boards especially.

Mr Conway: You realize that under the existing capital plan, that that recommendation is mischievous, to say the least, where the interests of the Ontario Ministry of Finance are concerned.

Mr Meany: You're using the word "mischievous" in quotes, I take it?

Mr Conway: Mm-hmm.

Mr Meany: It sounds pretty good to me, but it's certain we're for our own interests and for the interests of children. We have been worried, indeed way back, that children are moving into an area—I've done this myself with young children, and that's a long time ago—under the assumption that in an orderly, civilized country there would be a school, that education is as important as, say, the park. They're both important, but it's at least as important as the park. We're dealing with human beings. You go in there and, as I found, there wasn't a school. You're looking for a bus and sometimes it's hard to get buses too, and the rest of it is just a mess.

Mr Conway: We had a distinguished member of the upper Canadian bar here this morning, Mr Jaffary by name, quite knowledgeable in not only matters of municipal law but of municipal politics. In his letter to the committee, at the bottom of page 3, he stated that school boards are almost as good as regional municipalities in their indifference to the time pressures that developers often face in bringing a plan of subdivision to some kind of fruition. Do you feel the school boards with which you have some acquaintance are guilty of the charge?

Mr Meany: Not guilty, my lord. I think we all know that school boards move as quickly as they can. They have planners. Mr Gera can answer anything that's too complicated or technical for me, but we have good planners and we act in cooperation as much as possible with the municipality and the sister board. We know in advance what we're likely to have in the way of kids. The variation that actually occurs is not significant. Moving as fast as we can but without cooperation from those whose interests are otherwise, it's impossible to get the service.

Ms Churley: Thank you very much for your presentation. It's extremely helpful. I know when I sat on Toronto city council, I experienced at first hand what you're talking about. In our haste sometimes, particularly to develop good development, affordable housing, our school board was often before us: "Now, slow down. There's no plan for a school in this location." So I understand precisely what you're talking about and how on many occasions, in that haste, the school board and

the needs of the children and schools are forgotten.

There are a couple of areas that you have quite clearly indicated are problematic for school boards. I'd like to talk about the one on page 6 of your document, where you express concern about time frame. It's my understanding that what this bill will do is restrict public involvement overall. For instance, the public notice and appeal periods are reduced to 20 days for notice of an official plan and for filing an appeal of an approval decision. If you add in weekends and perhaps slow postal service and maybe holidays sometimes that come in there, people could be left with literally a couple of weeks to review what is often a very complex document and to prepare submissions.

I think you mentioned government review periods are shortened. Review and approval of an official plan is now 90 days instead of the 150 days in Bill 163, which was shortened from the previous bill. The public meeting requirements are removed for a subdivision plan, and in regard to the persons who will be entitled to notice that an application has been made, that will be left to regulation, which can be changed frequently.

So I have some real concerns about public consultation here. I'm wondering—you proposed a very specific amendment here—if you could comment a little further on the implications to you if that time frame is shortened. What would happen?

Mr Meany: As far as the details of shortening the period are concerned, if we needed that, Mr Gera would be glad to do it because he has to wrestle with that. But, in general, what's happening is that in the pursuit of one public good we're doing public harm with this act in another area. That sums it up and we're asking that the committee make appropriate recommendations that would take into account the public good in the matter of children and with education as well.

Ms Churley: I can assure you that we will be looking to make some amendments in that area, which I hope the government party will accept. Thank you again for coming down. You can count on my support in these areas that you brought up today.

Mr Trevor Pettit (Hamilton Mountain): Good afternoon, gentlemen. You mentioned earlier about the streamlining, how it will affect you. But on the whole do you agree or not agree that the new time lines will expedite the approval system even further?

Mr Meany: This is what I meant by pursuing one public good, but it should be done in a coordinated manner. It's like an army moving forward to attack something and leaving the artillery behind. The whole army will fail. If you don't have education, if you don't have kids properly educated and a place to educate them, it's a hurt to society as a whole. It's not really a political matter. I hope that the committee will see fit to make the necessary amendments to make the thing work right.

Mr Pettit: So you agree that it will expedite the system further.

Mr Meany: It will expedite part.

Mr Pettit: It's just that it'll be a little bit too quick for the boards themselves.

Mr Meany: A long bit too quick.

Mr Pettit: Is there any way that the boards themselves can streamline their system?

Mr Meany: Our systems are streamlined, as I explained in answering Ms Churley. But we have operate within a framework of legislation that requires us to deal with the municipality and with the various ministries, and that framework is so set up that it's impossible to go any faster than we're doing now.

Mr Hardeman: In your presentation you refer to the fact that we should not only address the need for the school site but the adequacy of the school in the area where development would be approved. Recognizing the problem we have with the development charges and whether they should or should not be allowed to apply to the school board, how were you proposing to deal with the issue of if the school site or the school facility was not adequate in the area, should we prohibit the development or should we look at other means of funding a school site?

Mr Daly: I'm not so sure that we're suggesting prohibiting, although in some cases that might be appropriate. What we're saying is that there has to be a better staging of the development, taking into consideration the adequacy of sites and facilities, not let the entire development proceed at once where there are no school facilities. If there was proper consultation with boards and the development were to be staged in over a reasonable period of time, then perhaps that would solve the issue. In some cases, if the ministry were not forthcoming with funds to build the necessary schools, it might be necessary to delay the development.

The Chair: Thank you very much, gentlemen. We appreciate your taking the time to come down before us this afternoon and make your presentation.

Has everyone noticed there is a gap in our agenda this afternoon, a group that cancelled at the last minute? I'm wondering whether the presenter scheduled to appear after that, Susan Smith, by any chance is in attendance yet. Seeing no indication, unless anyone has any other suggestions, shall we take a recess?

We'll take a brief recess until 1:50, at which time we'll hear from Ms Smith and subsequent presenters.

The committee recessed from 1329 to 1349.

SUSAN SMITH

The Chair: Seeing a quorum, we shall reconvene. Our next presenter is Susan Smith. Good afternoon.

Ms Susan Smith: Good afternoon. I have a cold, so please bear with me; I'll speak as loudly as I can.

I thank the clerk of the standing committee on resources development and the committee members for the opportunity to speak with you about Bill 20 and the most grave concerns I have about the bill and draft omnibus Provincial Policy Statement to replace what currently exists.

The majority government has been afforded the right to govern until early fall in the year 2000. However resilient the Ontario economy has been as experienced in my lifetime over the past 40 years, the changes this government is proposing to make to the Planning Act, as amended by the 35th Legislative Assembly at the end of

1994, seriously begs questions of this government's good faith to even aspire to attempt the responsible management of Ontario's economy.

I will address process, some specifics of Bill 20, and some specifics about the proposed policy statement.

I appreciate that the process here today permits this committee, with all the substitutions and interested people, to have due regard to what is presented to you by myself and others, that is, that you shall "look at" the information brought forward in this public consultation. That may be all one can expect of this process, but I'm here to tell you that I expect a great deal more. It's not acceptable to mirror the process at the local level, with proposed changes to no longer require a municipality's official plan to be consistent with provincial policy interests as set out in provincial policy statements.

I feel you ought to address the limitations inherent in the committee's title, as it is limiting to not make articulate distinction between renewable and non-renewable resource. Managing non-renewable resource is the greatest challenge facing anyone who manages Ontario's economy.

The goal of "promoting economic growth," you will be told by many, is a laudable one. "Boosting economic growth to create jobs" does not sound to have a vulnerable or questionable premise. The reason I quote the explicit language used in the government's communiqué press release of November 29, 1995, when Mr Eves pronounced the 1995 Fiscal and Economic Statement, is to demonstrate where the contradictions internal to the press release or "spin" on the political document seriously undermine your efforts.

Erik Peters, the Provincial Auditor, wrote of Bill 163: "Recent changes to the Planning Act contained in Bill 163 established specific roles and responsibilities for the province and municipalities, helping to eliminate the inconsistencies and unnecessary duplication in planning decisions."

On November 29, 1995, Eves announced the government is "adopting a single set of financial reporting standards, standards set by PSAAB," but then you are giving municipalities—and I quote again from the government's document—"more flexibility" as well as "fewer rules" by combining northern transportation assistance, municipal roads and unconditional grants into a single block fund. This appears to contradict the position that the government party took in opposition with respect to separating the accounting of capital dollars from strictly operating funds transferred to the municipality partners. Why and how do you need to keep a second set of books?

The government's zeal to pass Bill 26 expressed an enthusiasm to delete what is now in place in policy of provincial interest. That was articulated extremely well when it accompanied Bill 163. Commissioner Eva Ligeti voiced realistic dismay about the Ministry of Finance having regulatory exemption from the Environmental Bill of Rights legislation and from the registry. We already know this has happened. As well, it makes no sense to remove funding for energy standards development programming, which is directed at conservation and monitoring measures. It is irresponsible to not require

permits in lands subject to the Public Lands Act.

I have briefly sketched the context, Bill 26, in which I examined Bill 20—very briefly.

Your process contrasts sharply with the almost four-year public consultation process started by the previous government in 1991 in order to refurbish the Planning Act. Your couple of weeks' consultation contrasts with years of repeated public input, including August 1994, when the municipality of London, as well as other members of the region's public, informed the standing committee examining Bill 163 about their experiences to that date with the local Vision 96 process to proactively engage in creating a new official plan.

I approach this Bill 20 and policy statement as one who has run for office in a large urban municipality, which acquired, through Bill 75, a much larger footprint. I refer you to the page at the back showing the "footprint" in the new ward boundaries, which do not recognize natural features for communities of interest. That's what I point out, that the footprint's significance is by no means one-dimensional. London has underground water flow all over the entire region, so any significant geomorphological feature, like a moraine, has dramatic impact—also on the ability to service and to retrofit. For instance, London cannot be retrofitted with a subway for transit support.

The London experience is of substantial significance to your deliberations, which is why I am mystified about why London was not chosen to be scheduled for an earlier date on your provincial tour. The London hearing is the day immediately preceding your first of two days set aside for clause-by-clause amendments. The day you do the amendments is the day that all members of the committee will have access to what's presented.

I can only hope that these 24 to 48 hours will be enough time for you to understand how this Bill 20 and its many inadequacies, not the very least of which is the policy statement, are sabotaging the potential of a sterling and visionary public participation paradigm called Vision 96. This public consultation process came about due to the previous Minister of Municipal Affairs' creative approach, the most significant aspect of which was the priority ordering of the goals and objectives to be attained by the Vision 96 process, to culminate in an official plan for the enlarged upper-tier municipality. These objectives and goals are contained in the August 3, 1993, schedule of a regulation set out by the minister for Bill 75. I'm sorry I don't have a copy appended; it would inform your understanding of Bill 163. Significant issues informing the economics of urban and rural form were addressed in the objectives, as were issues pertaining to the regional economy.

The London region is surrounded by great non-renewable resource of first-class soil on remaining farm land. There is currently an official plan amendment before the Minister of Municipal Affairs and Housing—and that's also appended in your document—for a development proposal that "eclipses in size any other development proposal in that community over the last six years." As of January 26, 1996, the municipal planning official in the municipality feels the proponent is caught in a "legislative net" designed more for regional municipalities

such as Toronto and Ottawa than small cities. However, the municipal official's read on this is: "The development will go through. It's only common sense that it will go through."

The proponent is an experienced developer who has developed more than 10 large neighbourhoods in the community in the last 30 years, who feels the community's economic outlook still looks promising. Others in the community, frankly, take note of the proponent's confidence and enthusiasm as there was a layoff from two factories involving more than 500 full-time employees the same day the proponent announced her \$140-million, 515-lot residential development project. The development totals 163 acres on two sites. One site abuts one of her earlier neighbourhood developments, and the other abuts the city limits with a right-of-way access to the land under cultivation.

Building could be completed in five years, according to the planner-consultant. I'll add that the planner-consultant is someone who can't practice a trade in London at the moment because there are certain controls with respect to the community deciding land uses for the future, at least 20 years.

The Home Builders' Association is on record that the project will create and keep numerous jobs as the local housing market is, in their subjective opinion, "good."

As she has had family members farming the land, she's very confident about getting the necessary proposals and is certain the land will be farmed until the homes are built. The province's approval is needed to make changes making the land residential. If it may only be a temporary catch that the province's approval is needed, and only a temporary catch that these two sites are prime agricultural land, I am completely confident to therefore ask you to amend the definitions section of the policy statement to remove from the definition of the word "development," "or works subject to the Drainage Act." I'm asking you to consider as a committee removing that.

I'm supportive of two-unit residential development receiving favoured or priority consideration over family homes. This tool to make most forms of infrastructure cost-effective and efficient—such as transit, some utilities, and I would also add perhaps schools—ought not be deleted from the much touted and downloaded toolbox. Considerable technical time was spent by the Alternative Development Standards Advisory Committee to devise and prepare guidelines that all community public and private stakeholders found acceptable.

As a stakeholder who reported to the Ontario Environment Network, I was appointed to a Ministry of Municipal Affairs and a Ministry of Housing committee which examined alternative development standards. This committee met throughout 1993 and 1994 and produced a guidelines document by March 1995, which was presented to the interministerial committee.

1400

Municipal utilities and provincial associations of infrastructure providers, as well as the Urban Development Institute and the Ontario Home Builders' Association, were represented on this committee. I bring this to your attention to advise anecdotally of an interest

expressed during development standards discussions of broader issues of land use planning with respect to land dedication for institutional uses in plans of subdivision submitted for approvals. Therefore, the relevance is more applicable to those proposed capital projects—for instance, in London, for the public board of education for new schools—scheduled for completion dates of 2001 through 2003 and beyond. There are two developments there known as Summerside and Killaly.

There were open discussions about institutional land dedications and the “opportunity” for “creative” ecology education projects like artificial wetlands to make use of the wet spots that are inappropriate for drainage even for residential purposes. The inclusion of areas prone to even conservative water retention are not at all appropriate for a school campus accommodating junior panel students. There is a school campus in the St Thomas, Elgin separate school board, originally in Yarmouth county, that had been agricultural land and that had been drained with the use of a Drainage Act application where water retention ponding was examined two years ago by members of the Kettle Creek Conservation Authority. It was observed that opportunities for creative orientation activities with first-year students, as well as opportunities for training competitive rowing teams, may be future advantages of these structures on school campuses.

Now some quick comments on the policy statement itself, as it was circulated to me for written input, from the customer services representative from the minister's office at 777 Bay Street, on the 17th floor.

Under section III, Policies, section 1, “Efficient, cost-effective development—developing strong communities,” in the section “In areas where growth is to occur: 1.1.1...promoted by” I would like you to amend (b) by adding the word “organized,” so it would read “strengthening the role of organized rural areas as the focus of growth for rural, resource, and resource-based recreational activities.”

I would like all of section 1.1.1(c) removed.

I would like 1.1.1(e) amended so that you remove the last line, which reads “based on housing market areas; and”.

In section 1.1.2, “Land requirements will be based on a range of land uses and densities which,” in part (a) I would like to replace the word “avoid” with “prohibit.” I would like 1.1.2(e) removed.

In section 2, Resources, 2.1, Agricultural Policies, I would like you to remove 2.1.1, 2.1.2, 2.1.3 and 2.1.5.

I will also comment that intervenor funding must be restored and natural heritage protection needs to be returned to the protection of provincial interest in the Provincial Policy Statement, and what is suggested through the process of Bill 20 and the attending statement is not acceptable.

In the definitions section of the policy statement, in “residential infilling” I don't like the 100-metre separation. I don't think it should be that far apart and I'm suggesting that you change it. I am not prepared to suggest more than a 25% reduction, but I am suggesting that you change that to never exceed 75 metres.

Under “redevelopment,” I have concerns that it only

refers to residential development. In the city of London, we have a public secondary school, Beal Secondary School, which is redeveloping on land. The infrastructure that's in place that it makes use of is extremely valuable, and it doesn't make sense to exclude other kinds of development other than residential from the definition of “redevelopment.”

With respect to “natural heritage features and areas,” I'm questioning why you want to qualify “wetlands” with “significant.” The city of London's history is that 20,000 years ago it was under 2,000 feet of water. Two transcontinental glaciers that were coming across the continent very slowly bumped into each other in London and left moraines, left riverine corridors and vistas that have been part of human heritage history for a good period of time. Five hundred years ago, the Neutral Indians were living in a temperate climate at the far north end of the Carolinian ecosystem that was a veritable garden of Eden—and a forest of Eden. I feel any wetland is significant in this area.

London can never be retrofitted with public transit, like a subway, to make it cost-efficient. It has to have the land that is left planned extremely carefully. The extensive loss of wetland in southern Ontario is exactly that. Any wetland is significant, and I would like the word “significant” as a qualifier removed from that part of the definition.

In the “multi-modal transportation system” definition, I would like the wording changed so it actually integrates the components in the most sustainable configuration, not simply to list them. It's not even alphabetical; I have no idea why the listing was like that.

Under “established standards and procedures,” under “access standard,” I would like you just to reverse the order so that it reads “ensure safe pedestrian and vehicular movement,” not “vehicular and pedestrian.”

Under the definition of “development,” again, remove references to “works subject to the Drainage Act.”

As I travelled along one form of infrastructure on the Bloor line to get here today, I imagined what David Crombie's vision for enhancing and restoring significant and natural features in the Don Valley could have been.

I do not support the authority of the minister to restructure municipalities and issue regulations to inform any restructuring on the basis of this draft policy statement. The statement has no merit for replacing policy amendments put in place under Bill 163.

Incompetent planning over time expands exponentially the costs to taxpayers. The absence of competent planning for rural Ontario is evidenced in what this statement proposes in the bill for wayside pits and quarries policy, with the possible consequence of destabilizing or even polluting potential rechargeable groundwater supply. What kind of genius wants to build and develop in an area with no potable water supply? I guess someone determined to be enterprising with other people's money.

I grieve the implications and future results of these retrograde changes proposed. By comparison, it is merely discouraging to think of all the expertise, time and energy from public consultation—and you'll hear about that from the person who follows me—that is wasted by this Bill 20. Badly planned development is bad for sustained

security, bad for the environment, bad for communities, bad for individuals and bad for the economy.

My greatest concern is reserved for changes proposed to the Development Charges Act to seriously restrict the levels of service provision developers can be asked to contribute. Under the proposed changes, they won't be required to pay their fair share. It's absurd for a government whose hallmark is claimed to be competent public fiscal management to propose changes that will lead to urban sprawl and unsustainable rural settlement—precisely the types of development that will require expensive and unnecessary public infrastructure costs. Bill 20 has the potential to seriously impair a municipality's ability to effectively manage local costs.

With the devolution, empowerment or disentanglement of services on an almost daily basis—I exaggerate; not a daily basis, but perhaps a weekly basis—how prescient could I have been to request a new development charges bylaw for London for 1995—I was requesting it in 1994—to reflect the existence of the London airport, knowing it would be devolved to the municipal authorities' shared responsibility. I hear David Collette, the Minister of National Defence, is considering proposing the same for armoureds in our communities across the nation. There's nothing in this to give us the tools to be able to pay for what we have to manage in our communities.

This policy statement seriously risks longer-term prosperity by compromising non-renewable resources, and I cannot fathom the rationale. I do not accept or understand the government jettisoning so much articulate and considered policy and at the same time stepping so far back from protecting provincial financial interests. I will be throwing my support behind any organization or coalition of organizations that advocates skilled management of the Ontario economy through competent planning.

I thank you very much for your time.

1410

Mr Hampton: It's obvious when you read through the bill and when you read the policy statements that will be appended that what is happening here is not minor fine-tuning; there's some pretty drastic stuff happening. You obviously participated in the four-year consultation period and so on that happened with the previous bill, Bill 163. Generally, what do you think this will do to planning, especially planning outside the greater Toronto area?

Ms Smith: I can be corrected by other people, but my reading of this is that what happens here is that it's very open-ended and interpretive. What's being downloaded is—it's not a shopping list; it's pick or choose. The opportunity is there for the municipality to not use what was previously in place but to pick another way of doing it. I don't think the opportunity should be there for municipalities to choose another way of doing this.

The Drainage Act—it doesn't take a genius to find farm land, and we're really picking the wrong people to say that these are somebody's livelihood and their financial future. It doesn't take a genius to find farm land. You know, it's already graded; it's drained; it's graded. That's the easiest route to development, and it

doesn't make sense. It's not cost-efficient for the public.

Mr Smith: Thank you for your presentation. I found it very technical, and I think it has particular application to the policy statement debate we'll probably have throughout the next three weeks.

As somebody who represents a predominantly rural riding, I'm most interested in your suggestion that a number of the subsections in the resources sections be removed. I wonder if you can share with the committee in a little broader context your rationale for removing those agricultural policies.

Ms Smith: My rationale is because what is in place now is acceptable, and this isn't acceptable. It's too interpretive. I think farm land should be treated as industrial land. Farm land should be industrial land. A farm retirement lot—well, maybe, but maybe not. People who are in a position to be doing that often don't occupy the same residential housing 12 months of the year. These don't make any sense to me. What particularly doesn't make sense is that in 2.1.3, you articulate a planning horizon of no more than 20 years. That's nuts. I don't mean you personally. But this policy doesn't make sense. A planning horizon for farm land of 20 years? I don't understand that.

Mr Smith: For all those individuals who are routinely involved in providing land use planning for agricultural or predominantly agricultural communities, maybe you can share with us how you might improve upon a policy framework to provide some guidance.

Ms Smith: I think that's done by the conservation authorities. Is that unacceptable?

Mr Pat Hoy (Essex-Kent): You've spent a bit of time on agriculture, and I have some concerns about that as well. In the Provincial Policy Statement on page 3, item (g) reads, "planning so that sensitive land uses and major facilities such as airports, transportation corridors," and they go on to name some other aspects, but agriculture is not specifically named there. Do you think it should be added into that section?

Ms Smith: Frankly, my perspective for a long time has been that agriculture pre-existing should be recognized as a pre-existing land use, so any other subsequent use should have to accommodate the fact that it's technically an industrial use. So I agree with that. The way I would suggest amending (g) is—I don't like the words "sensitive land use." I don't find "sensitive" is all that articulate about the issues that are being specifically addressed. It's not that the land itself is necessarily sensitive. It might be polluted. So it's a sensitivity. I think it's the issue of compatibilities, contiguous functions, and functions that don't work together at all. Obviously I would add agriculture if you are recognizing sewage treatment facilities or waste management systems and aggregate activities. As a pre-existing land use, if you're going to recognize aggregate, free the resource, sterilize the land and give that a priority, then obviously I feel agriculture should fall into that category. Have I come close to answering the question?

Mr Hoy: That's fine, thank you.

The Chair: Thank you, Ms Smith, for taking the time to come and make a presentation before us today.

JOHN SEWELL

The Chair: Our next presenter is John Sewell. Good afternoon, Mr Sewell. At the risk of repeating myself, you have 25 minutes to dispose of as you see fit.

Mr John Sewell: I have a few remarks to make which I hope will only take 10 or 15 minutes so that we have a bit of a chance to have some discussion.

As you may know, I was the chair of the Commission on Planning and Development Reform in Ontario that in fact established the existing planning legislation, so I have something of a personal interest in the kinds of things that are found in Bill 20. I want to restrict my remarks to just one set of concerns in Bill 20 that I think are the most serious that should be addressed, and they're the ones that have to do with the whole practice of planning in Ontario. I think there are four proposals in the bill that seriously undermine the practice of planning in Ontario and I'm hoping you would agree to change them.

The first one is the change in respect to the treatment of policy. As you know, the existing words say that decisions will "be consistent with" provincial policy, and that means decisions by municipalities, by the Ontario Municipal Board, and the change is to say that decisions will "have regard to" policy. This is a matter our commission dealt with for a long time. We worried about that. What should the words be? What should the relationship be between decisions that municipalities make and provincial policy?

We thought the key there was trying to ensure some degree of certainty so that people who were making applications, such as developers, would have some certainty how their application was going to be dealt with. If you had a policy that said development would not happen within particular significant natural features but it could happen in other places, the developer would know this was not a significant natural feature and therefore he's going to be fine to propose a development here, whereas if you have a policy that says it's just going to have regard to it, it means there is no certainty for the developer, because our interpretation of the words, looking at legal precedents, says "have regard to" means this: "Oh, this is the policy? Thanks, very much. We've seen it. Okay, now let's get on with our decision."

Changing the words back to "have regard to" is a real step towards uncertainty in the planning process and we think that's very bad. It's particularly bad for the 80% of municipalities in Ontario with a population of less than 5,000 and not having the resources to do an awful lot of planning. We think that's a very bad change and it does not help in terms of creating good planning for anyone in Ontario. I'll come back to that because I have an example, a real-life example that I'd like to tell you about once I've made my four points.

The second change we think is a real step away from good planning in Ontario is that relating to what should be in official plans. Subsection 8(1) of the bill deletes any requirement for the minister to set down regulations as to what will be in an official plan. This is a matter of great concern to a lot of people, not only to the development industry but to citizens in the environmental movement, because they want to have some sense that an official plan is going to be comprehensive enough to act-

ually address the big problems, because if the official plan doesn't address those big problems, they're going to be addressed in every single application that comes through.

My feeling is that the minister should set down the requirements of what an official plan should address to ensure that the council has addressed the big questions so people will know how they're resolved. Not resolving them means a municipality can have anything it wants in an official plan or nothing in an official plan, and again that really harms people who are trying to get things done in municipalities. There is no certainty. What do you do? How does the municipality stand on this? You don't know. We think that's a change that should not be made. It will not help anyone not to have some statement that says, "Here are the issues that should be addressed in an official plan." Removing that requirement from the bill is, in my view, a real step backward.

1420

I might say just on that point there is a comparable kind of change I think made in section 4 of the bill, but I should point out the language is gobbledegook. You really should get somebody to read the bill. It does not make sense right now. You can't tell what it means. Section 4 really needs a lawyer to look at it. At the moment it's gobbledegook.

A third change I'd like to suggest is in section 13. That has to do with the time frame in which a municipality should make a decision about an official plan.

One of the significant changes our commission recommended was that the time frame for municipal decision-making should be prescribed very clearly, so in the current legislation a municipality is required to make a decision on a rezoning application within three months. We thought, "That's pretty straightforward; after all, a rezoning is a change within an official plan, so you're really only dealing with questions of detail," and we found wide support for that. We also suggested that applications to change the official plan should be dealt with in six months.

Why the difference? Because official plans are much more serious documents, dealing with really big issues: Where is this municipality going? What areas should it develop in? What kind of density should it have? Where should the uses be? Very big questions, and we thought, the thing about an official plan is that it should have some permanence. It shouldn't be changing every day. If it is, it's not much of a plan. So we said six months to change official plans.

This legislation, in section 13—and I note the section there; it's 22(7)(c)—suggests that the time frame in which a municipality will be expected to change an official plan will be no different than a zoning bylaw.

My feeling is that treating an official plan and a zoning change as the same thing is dead wrong. That says planning doesn't have any status, municipalities shouldn't do it, it should change its official plan as easily as a rezoning bylaw. I disagree fundamentally. That is not going to help good planning. That will not give anybody any certainty whatsoever. It means that whenever anybody applies to do anything, there will be a big fight,

because they know official plans don't mean anything; they're the same as zoning bylaws.

That's the third change that creates massive uncertainty in the planning system, which is not going to help anyone. It will not streamline one single thing. It means everything's up for grabs on every application, and I think that's bad and I don't think that's a good kind of planning system.

The last point, also having to do simply with the practice of planning, is the change that's suggested in section 9, which seems to imply that the minister can relinquish the power to approve upper-tier official plans.

As you know, one of our recommendations was to get the province out of municipal hair. We suggested that could happen in a number of ways. One was by having good, strong policy you could actually refer to. That would keep all the departments, the ministries, out of municipal hair because you had some written down policy.

But another way we suggested of keeping the province out of municipal hair was to say that lower-tier plans got approved by the upper tier, whether the county or the region, and the ministry, the provincial government, would only approve upper-tier plans. It would mean the province could keep an eye on what was going on and make sure it kept before it the question of the planning framework in Ontario. We think that's very important. We think the province does have a good, strong role.

That power will be relinquished in that section. We—I think that's very, very bad. I'm sorry for continually saying "we." I've consulted my colleagues on this, Toby Vigod and George Penfold. They were my fellow commissioners on the commission. They of course have decamped for British Columbia for the warm weather, where I understand George is making lots of money in the consulting business, where things are happening. But I consulted them on this and they generally agree with the kinds of remarks I'm making.

The point I want to make is these are four changes that do not help planning, and I'd like to give you a case study about what would happen if these changes were in place. I use the example of the development of the Greenwood racetrack in the Beaches area of Toronto. It's a large 80-acre site that a large developer—Marco Muzzo and Fred De Gasperis, some of the largest in the Toronto area—purchased a year ago.

They are trying to develop it. They're trying to do something pretty straightforward, which is building about 900 houses in the very same form as you would find in that area, houses on a street with back lanes, which is exactly the way that neighbourhood works. Everybody seems to agree that if you're going to build anything there, that's what you build.

It's really interesting. This developer has run into a city council that has no interest in dealing seriously with the applications that the developer has suggested, that have been put forward. In fact, council seems to be caught up in this whole question of, how do we get more parkland there, not, how do we manage to get this development on and running? I might say that so far, city council has got about 25 acres of parkland. Somehow, they don't think that's enough. So there's a fight, right?

On the one hand there's a developer who's trying to do something, and on the other hand there's a city council that says no.

What's really interesting is at least at the current time, the developer has some things he can rely on. The first thing he can rely on is provincial policy. Provincial policy says intensification is a good thing, right? Provincial legislation says decisions will be consistent with provincial policy. So at least the developer can go to the Ontario Municipal Board and say: "Look, I'm doing something that's in line with provincial policy. The municipality isn't." I think in that situation the OMB is probably going to say: "Yes, you're right. There's clear policy. It's clear you have to act consistently with it. It's clear the municipality is not. Fine, let's get on with this and let's figure out how we approve it." That's one thing that the developer's got on his side.

The second thing the developer has on his side is an official plan. Toronto has an official plan now that meets all the requirements of every good official plan. It's comprehensive, it deals with all the issues, does the kinds of things that official plans are supposed to do under regulation.

Of course, that official plan says that's a low-density residential area and supports the building of houses. So what the developer can do is again go the OMB and say, "Look, what I'm doing conforms to the official plan and I would like it approved." This is what the developer has decided to do. Last week he applied to the Ontario Municipal Board. He said, "Hey, my applications have been in to the city for four months; they've refused to do any planning reports on them; I want to get ahead with my development, which the official plan says I should do, which provincial policy says I should do," which I think most reasonable people would say it should do. I think when the application is heard at the Ontario Municipal Board, the developer will do well and will get a good decision.

But if the four changes are made that I've been talking about this afternoon, guess what? The first thing is the developer will get there and say, "Look, I've got this terrific intensification scheme," and I think the OMB's going to say: "First of all, we don't have any policies of the province saying intensification's a good thing, but secondly, you only have to have regard to them. You don't have to follow them." I think the developer will be kicked out on that basis, because he has nothing on his side. The policy's not on his side; the legislation isn't on his side.

Secondly, I think what will happen is the developer will try to argue about the importance of official plans, but the OMB can say quite clearly, "Official plans, they don't mean very much any more; We don't have any regulation of what they should be," so the developer will lose the legal footing as well.

I think that can happen in Toronto. Not only will it happen in Toronto, I believe it will happen in small municipalities that don't have the planning expertise or the kinds of pressure groups that happen to exist in a place like Toronto. For that reason, I think these four items I've talked about, those changes are not helpful for anyone who's trying to get something done in the development area.

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By the way, I forgot to mention one point. If you don't have policy that says, "Protect these significant features, and you have to act in a way that's consistent with those features," the other thing that will happen to the applicant is he'll be confronted with some environmentalists who come forward and say: "See that pond in the middle of the racetrack? That's a significant natural feature. You save it. Let's have a fight about that." You think, "What a dumb thing to have a fight about," but in fact that too will be opened up.

No one is going to win with those kinds of changes and I would strongly suggest to your committee that in fact you amend the bill in those four respects.

Mr Hardeman: Good afternoon, John. It's a pleasure to see you again. You will recall that during the process that you were going through, the public consultation on Bill 163, I had the opportunity to serve representing the 80-some per cent of the municipalities you referred to that do not have the type of planning expertise that you express concern about.

One of the things that came out in those hearings was, there was great debate—I would agree with you—about the words "shall be consistent with," as opposed to "shall have regard for." At that time those municipalities, I think at least at the beginning, somewhat agreed with the premise that it should be "shall be consistent with." It was based on the adage that the guidelines would be very definitive, that they would do nothing but protect provincial interests and would do no more.

When the process was completed, those municipalities almost unanimously opposed the words "shall be consistent with," and it was based on that the policy statements were so definitive that in fact it was planning from Queen's Park, that if you were "consistent with" all the policy statements, there would be no local decisions. Would you care to comment on that? Did you see that there was some of that in that process, or do you not see that as a problem?

Mr Sewell: There's no question that you're right about that. Some of the smaller municipalities complained very much about the idea that first of all there would be policy, and secondly, that they'd have to act within it. I have no question that some municipalities did complain about that.

Let's face it, when you're trying to create some large-scale change to make a planning system that provides some certainty and that moves relatively quickly, I'm not sure you're going to get 100% of the people on side. What we did find was that generally municipalities, municipal planners, the development industry, the environmental movement and citizens' groups thought this approach was the proper one to follow.

I think if there's any problem, it has come with the implementation guidelines that underlie the policy. The policy, as you know, is very simple, very straightforward, with one or two exceptions that we could talk about. But I think where the detail comes that people get worried about are the implementation guidelines, which of course is why we had suggested that they be non-mandatory, as indeed they aren't.

So I was aware of the concern but I think the policy is set in general terms that reflect the provincial interest

while allowing most municipalities to do quite reasonable things within it.

Mr Hardeman: I have many more questions, but I'll turn it over to another questioner.

Mrs Fisher: I concur with the 80% that Mr Hardeman referred to. I happen to represent the riding of Bruce. I have 40 ANSIs, I have multiple-designation provincial parks, I have a national park, I have native reserves and I have a 45-metre setback from the whole lakeshore in terms of development right now.

You were present at the hearings in Owen Sound. We do have a Bruce county planning department, for example, that has been able to undertake and manage an official plan very well for our area. The case example you gave us was a Metro issue, and when you were out in the field you were reminded of the needs of rural Ontario. I think we're very capable of observing and adhering to those restrictions in the plan right now. Would you not think that a county planning department, with its expertise, could do the same for us?

Mr Sewell: The problem is that you need a planning system that creates some kind of certainty for people. I think that's one of the objectives. If you don't have certainties, you're going to have big fights exploding all over the place. I think to create that certainty you need two things: First, you need reasonable policy. I find it interesting that all the policies that you've talked about were not the policies that we recommended. We didn't make recommendations of any note about ANSIs, as an example. We talked about municipalities defining significant natural features, not the Ministry of Natural Resources.

Mrs Fisher: But 163 includes them.

Mr Sewell: I realize that, but please don't burden me with "something the government did that we didn't recommend."

Mrs Fisher: That's fair.

Mr Gerretsen: Of course, what's very interesting about this whole situation, what drives this whole thing, is the notion that somehow developers will get something more quickly from municipalities, and I think the case study that you've shown, which could happen in any municipality—

Mr Sewell: It does happen all the time.

Mr Gerretsen: I totally disagree with what's just been said. It could happen in any municipality. In effect, it gives more fire to the people who are opposing some development because of the uncertainty of the situation. Is that basically your point?

Mr Sewell: Yes, that's exactly the point I'm trying to make, that it's extremely important that you create a system in which there is some kind of certainty. You need good policy and you need some good words that say people have to pay attention to that policy. My fear just with the words "have regard for" is that they do not mean you have to pay attention to the policy. Find words other than "be consistent with"; that's fine with me, but you have to say something that says, "This policy is important and you should be acting within it."

Mr Gerretsen: From a municipal viewpoint, I think where they've always had problems with all these provincial statements etc is that there's always been this

feeling that they can change at a moment's notice, and certainly have in the past—I'm not talking about just—

Mr Sewell: So that the ministry could change things?

Mr Gerretsen: Sure, the policy statements.

Mr Sewell: That's been a great problem.

Mr Gerretsen: That's been a great problem.

Mr Sewell: That's been a horrendous problem.

Mr Gerretsen: Do you have any suggestions as to how that can be handled, in other words, that the concerns of the municipalities that all of a sudden they aren't going to be facing a huge policy change in which they've had absolutely no input—how, from your viewpoint, from where you've sat, can that be changed?

Mr Sewell: Our proposal, and I think this kind of a system is generally in place, is first of all that policy has to emanate from the cabinet, not from ministries. In the past five years, apart from the adoption of this policy—before that, policies used to be thrown out on almost a weekly basis by ministries. We say, "No, policy should be done by the cabinet," so in fact it is serious.

Secondly, you want to set up an approval mechanism that doesn't require the province to sign off on everything you do. That has generally been put in place at this point in time. I realize that some ministries can move in different ways than others, but that to me seems to be the situation you should be working towards. Having the province simply say, "We're abandoning any interest in planning," will not create any certainty, will not help in terms of creating good or bad development in Ontario. It will create an awful lot of fights. That's what we've had for the past 10 years, and removing those kinds of changes that point towards making the system work better seems to me to be just a step in exactly the wrong direction.

Mr Mike Colle (Oakwood): John, what these Bill 20 amendments are doing is basically making official plans ad hoc documents that can be changed willy-nilly by municipalities at their whim.

Mr Sewell: I might not use exactly those words, but it seems to me that's where we're headed, that official plans will have no more status in a rezoning bylaw, that in fact there is no requirement that they be comprehensive or address all sorts of problems. That is being removed, and of course, they aren't having to adhere to any statements of provincial interests of any note because of the "have regard to."

Mr Colle: So basically official plans are weakened documents that are not going to have the weight they used to have.

Mr Sewell: Not just official plans, but the whole process of planning in Ontario, which is a thing that can give you some certainty. I believe, just in these four instances, it will be very weakened and I don't think it's going to help any of us.

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Ms Churley: I guess if Ernie can call you John, I can too; can I, John?

Mr Sewell: Thank you, Ma'am.

Ms Churley: He is a constituent of mine, I must confess.

I really think it's important that we clarify. Unfortunately, we are tending to spend a lot of time on the "be

consistent with" as opposed to "must have regard to." I think there's a fair amount of confusion around it and I sense that there's been a mixup between the guidelines, which I know there was a lot of negative reaction to, and the policy.

It's my understanding that municipalities wanted more autonomy by freeing them from having to go to the province all the time for approvals. They got that, and the tradeoff was therefore that the municipalities' plans had to be consistent with some kind of provincial policy. That was the tradeoff there. This is where I think we might have a misunderstanding as well.

I've heard government members say a couple of times this morning that we can't have a policy that works for Toronto that is the same as a policy you'd need for Sudbury or Sault Ste Marie or whatever, and that therein lies the problem: You just can't have a policy that fits. The policy itself—the guidelines are separate—I see it as being very flexible and that it mostly deals with environmentally sensitive areas. Could you clear that up, how the policy can apply overall?

Mr Sewell: The approach that our commission took, and one that I believe is extremely useful—from the calls we get from across North America it seems it's useful there; the people generally think it's useful—is that policy should be general in nature, pointing in a direction that you want to go in. Then municipalities should act within it. It's fairly simple.

We were very clear that we should not get into detail about how that policy would be implemented. Ontario has gotten into that detail in the past and it hasn't been helpful. We think, for instance, of the standards that have been laid out for urban development, where most developers are saying: "These standards are crazy. They literally force us to bury money in the ground and it doesn't serve any useful purpose." What we wanted to do was make a break between the direction you should be going in, which is policy, and how you might implement that policy, so we said general policy that is applicable generally throughout Ontario, and we think you can have comparable policies. Obviously, agricultural policies will not apply in Toronto, but we think urban policies are common to the province.

Secondly, we made it clear that implementation guidelines were advisory only. In fact, I might say that is now set out in the interpretation and implementation section. It says implementation guidelines are advisory. I know that many people have been furious about these 800 pages that have been floating around that are now the implementation guidelines. I agree with them. They're crazy, and they are not useful documents. I've looked at them. But that doesn't take away from the fact that you need some general policy saying, "Where are we going?" If you don't have it, people will make it up on every single application and we'll be back to where we were five years ago, where there were fights on everything. I don't think that's the kind of planning system we want to have.

The Chair: With that, thank you, Mr Sewell. We appreciate your taking the time to come and make a presentation for us today.

Mr Hampton: In view of Mr Sewell's contribution, I wonder if we could have unanimous consent to ask some more questions. We're talking to somebody here who spent literally four years working on this. The committee is not going to have too many opportunities to hear from someone like this again.

The Chair: Our concern, Mr Hampton, would be that we have a number of other groups scheduled this afternoon, and we'd be inconveniencing each one of them.

Mr Colle: No problem with that. We'll consent.

Ms Churley: How about five more minutes?

Mr Hardeman: Much as I appreciate Mr Sewell's contribution, I think it's unfair to other delegations who are also very informative who spoke to the committee and those who are yet to speak. I think we should carry on as it's been set up.

Ms Churley: Five minutes.

The Chair: In the absence of unanimous consent, thank you, Mr Sewell.

Mr Sewell: May I say, it was not four years. Our commission was two years. We think we're the only royal commission in the history of Canada that was on time, under budget and almost fully adopted, and then of course abandoned a few years later.

CITY OF MISSISSAUGA PLANNING AND BUILDING DEPARTMENT

The Chair: Our next presentation will be from the city of Mississauga planning and building department. Good afternoon.

Mr John Calvert: Good afternoon. My name is John Calvert. I'm director of policy planning for the planning and building department of Mississauga, and today with me I have Diane Horner and Ron Miller, also from the Mississauga planning department, as well as one member, Mr Rahkola, from the community services department, just in case there's a wide range of questions.

Mr Chairman and members of the committee, Mississauga was actively involved in the work Mr Sewell did through the Commission on Planning and Development Reform in Ontario and the subsequent Bill 163. Following up on that, Mississauga has taken a position on Bill 20. Our Mississauga city council, on January 31 of this year, has passed certain recommendations which have been forwarded to the minister regarding Mississauga's position on Bill 20.

The majority of our comments today are focused on the Planning Act component of Bill 20, and the presentation is set up in four components: the first part, the parts of Bill 20 that Mississauga fully supports; the second part, the areas we support but feel that there's some further discussion or clarification required; the third part is the areas that we don't support; and fourthly, the areas that Bill 20 is silent on that we want to present to just raise some points on.

First of all on the areas that we fully support, you'll probably hear the reverse side of the last presentation.

We support the return to the "have regard to" legislation with respect to provincial policy statements. We also support the authority to include provisions in the official plan, subdivision approval and zoning bylaws to regulate

and control the creation of houses with two units. Thirdly, we support the elimination of the requirement for a public meeting on subdivision applications and consents.

We support establishing the Ministry of Municipal Affairs and Housing as the only ministry that can appeal a planning decision to the board. We support the removal of power that prescribes "any other matters" as being of provincial interest.

We support the removal of the authority of the province to prescribe the contents of official plans by regulation. We feel that this can be handled at the municipal level.

We support the exemption model that's included in Bill 20 whereby the official plan and official plan amendments can come into effect when council adopts a plan and there isn't an appeal within the 20-day appeal period. The simplification of requirement to give notice of council's adoption of plans only to those who have filed a written request is also supported.

The notice of dismissal power regarding appeals to the OMB is also supported, and finally, the provision regarding pending amendments, that a zoning bylaw passed prior to an official plan amendment coming into effect, will be considered to conform to the plan amendment once the plan comes into effect.

Those are the areas of Bill 20 that we have no problem with at all.

The next area, certain components of Bill 20 that we support but we would like further review or discussion on them:

The first is the direct appeal to the Ontario Municipal Board. While we're not questioning the appeal process, we feel that the direct appeal takes away what's currently available, which provides the approval authority with the opportunity to review and consider matters that may be worked out or resolved and would hopefully lead to the elimination of a series of unnecessary referrals. So that direct referral, without question, we feel requires some further consideration.

Secondly, while we support the reduction of time frames and all efforts to streamline the development approval process, the further reduction in time frames proposed under Bill 20 may lead to not providing sufficient time to resolve issues, to discuss matters that could have been resolved with a little more time, especially the proposal for the 90 days needed to lapse from the date of application before direct appeal to the board. Perhaps that's too short a time that issues could be resolved, but the philosophy of reducing the time frames and streamlining the process is supported.

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Thirdly in this area, we feel clarification is needed of the intent of deleting the words "all or" in subsection 34(1). Section 34 allows municipalities to include provisions in the zoning bylaw which currently would prohibit all or any use of land in environmentally sensitive areas. Bill 20 modifies these zoning powers to allow municipalities to prohibit any use of land, so there's a change from "all or any use of land" to "any use of land." While this is adding flexibility, we would just like that clarified as to what specifically is meant by that change.

Another area that council supports but still feels there's need for clarification and further discussion on is the appeal procedures of decisions of the committee of adjustment. On the one hand, Mississauga council would like to retain as much authority and decision-making at the municipal level as we can, and we're not opposing or objecting to the appeal process to the municipal board. But having council review the decisions of the committee of adjustment—we were wondering and have raised questions certainly at our committee and council meetings about the extended workload of both the municipal board, which is already overloaded now, and the extended workload of council municipal staff, the increase in the number of rezonings that may happen. If you go to the committee of adjustment, have referral to council and you don't have council support, it becomes possibly a rezoning application. We're looking at that whole area of increased workload at the municipal council level that should be raised.

Finally, the issue that the act be amended to provide the municipality with the authority to impose a fee for filing an appeal to offset the cost, as Bill 20 now suggests for the board. If this portion of the act goes through, perhaps that could be extended to the municipal level as well.

Another area that we support and again have raised a question on is regarding the requirement to convey land for public transit rights of way. We support that but just question whether it should be extended not only to transit rights of way but to similar treatment for storm water management retention ponds, areas like that, that we could acquire through site plans and plans of subdivision.

The third area, the area that we do not support at this time and where we've requested, through the report I referred to that did go through our municipal council, that the minister amend the legislation:

The first section is with regard to mandatory official plans. The act now states that official plans are mandatory for, among others, regional municipalities, while local municipalities within the region "may" prepare plans. We feel that official plans are very important planning documents and that official plans should be mandatory at all levels, not just mandatory at the upper tier, the regional level, and "may" at the local levels. On that point, we've also said that upper-tier official plans should be very strategic in nature and really address only that level of planning and that they should provide a real added value to the planning process.

Second in the areas that we do not support: the elimination of the power of the municipal board to dismiss matters on the basis of prematurity. Right now, as you know, the municipal board does not have to have a full hearing if an issue is premature in terms of provision of hard services. If the board has to go through a full hearing on these, not only will it increase the workload of the board and its backlog on referrals, but if that's the case, we feel that a lot of those would be, or should be, of a very low priority before the board, especially if the area is not serviced or if services aren't expected within a reasonable time frame.

The issue of prescribed information versus additional information and the time for appeal: The bill requires that

the clock can start ticking on provision of the prescribed information. We feel that additional information with any application of rezoning or subdivision, which could include areas such as traffic studies, noise impact studies, environmental impact studies, parking, marketing studies and so forth, is needed to help council make an informed decision before the clock starts ticking, that just the prescribed information may not be enough to make an informed decision. We would like prescribed plus additional information together so that all decision-makers will have all the information in front of them.

Also, requiring that existing houses with two units be registered within the city by a fixed date: Without such a provision, anyone can claim that an apartment existed prior to November 16, 1995, and therefore is legal pursuant to Bill 163. So we would like to see a fixed date on that registration part of it.

Finally, there are a couple of issues that Bill 20 was silent on that we would like to bring to the committee's attention that we would like addressed.

First of all, reference to the definition of "land use planning" in section 1 should be expanded to include other areas of planning, such as social planning, environmental and financial issues.

Section 2.2 of the act regarding provincial interest should be extended to require that every minister and Ontario Hydro be required to comply with the provincial policy statement.

Thirdly, the issue on public consultation on policy statements: The act right now indicates that whether it's a new policy statement or an amendment to a policy statement, the minister shall confer with such persons or public bodies that the minister considers have an interest in the proposed statement. We feel that the act should have a mandatory public consultation process, because all changes to the provincial policy statement could have impacts on municipal and community levels. We feel a mandatory consultation process should be included in that section of the act.

Also, the conveyance of land for park purposes, section 42: This is a major concern of Mississauga. The provision of Bill 163 to amend section 42 should be repealed to allow the continuation of the previous two-stage payment process in which payments of cash in lieu of park land are valued at improved land values. It should be a return to that. In Mississauga, and Mr Rahkola can comment on this in more detail, the payment of land for park purposes—one payment is taken early in the process at a certain value and a second payment is taken later, just before the building permit's issued; it's really one payment split in two—that two-step process, that provision should return. Also, the act is silent on enabling municipalities to require a combination of land dedication and cash in lieu of park land. We would like those matters addressed.

Finally, there are two areas that were not part of our report before council, so I can't say they are a council-approved position. But they have been raised and I've included them in this presentation, the first one following a court decision of early last week so we did not have time to take it before council.

I'll just read the section and the concern that we have. Intrinsic with the stated desire of this government to return decision-making to local governments, municipal empowerment, is the need for a strong partnership with the province. This will enable local governments and the province to improve coordination, better protect the environment and public health, and to streamline the development approval process. We're requesting that crown corporations be subject to the Planning Act, the Building Code Act, the Development Charges Act and other appropriate legislation. This will be consistent with the existing Environmental Assessment Act and Expropriation Act, both of which bind the crown.

Finally, in terms of the Assessment Act, as I said, we did not address this in our position to council, but it is a feeling of staff in Mississauga that we'd like to take this opportunity to outline that Mississauga supports the Assessment Act in regard to farm assessment, subsection 19(3) as it currently exists. It's explained here, our—I say "staff position" but I would probably hesitate not to say council is in support of that as well.

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Mr Gerretsen: I'm sure that since his brief was so supportive of the government's position, the parliamentary assistant will ensure that the different acts will be changed so that the crown will be subject to this legislation as well, to the Planning Act. I'm sure Mr Hardeman will take that back.

Ms Churley: We'll support that.

Mr Gerretsen: Something tells me that if we see that, almost anything is possible. Of course almost anything is possible with this government. But in any event, you've heard Mr Sewell's presentation before—I believe you were in the room at the time—and you heard him express concerns about the lack of certainty and how this may prevent good development from happening because in effect it will give the opposition to good development that both the council and the developer obviously want, to raise issues which the OMB would have to accept, and therefore it may actually be almost an anti-development kind of a position. What are your comments on that? Do you have the same concerns that he had about changing that clause from "be consistent with" to "have regard to"?

Mr Calvert: No, I don't have the same concerns that Mr Sewell expressed. My feeling is that the authority and the decision-making and that level of accountability should be at the local municipal level. There should be a provincial policy statement that gives direction, I'm not questioning that, but the flexibility for decision-making and accountability should be at the local level. "To be consistent with" really binds our hands in a lot of decisions that local councils may want to make, if we have to be consistent with a provincial policy statement. Mr Sewell sees the emphasis at the provincial level, but I see the emphasis for decision-making and accountability at the local level.

Mr Gerretsen: The one aspect I agree with in your brief is this whole notion that before any provincial interest statement is published and taken as a fait accompli, in effect there be a mandatory public consultation process. Do I take it from your past experience in this area that this hasn't always been the case and that at

times provincial interest statements have been brought forward that the city of Mississauga and other municipalities may have wanted to have some input into?

Mr Calvert: I think we would want to ensure that the opportunity exists in all changes at this time. Changing a provincial policy statement is significant, and there should be a mandatory provision for consultation. I'm not saying it hasn't happened.

Mr Gerretsen: But why are you concerned about that if the wording is being changed from "be consistent with" to "have regard to"?

Mr Calvert: The contents of a provincial policy statement are important. To say that we just still "have regard to," that's been around for a long time, but it doesn't mean we totally ignore it as perhaps the impression was given. Yes, we're not bound by it, but we don't ignore it either. We can't dismiss a policy statement, saying it's not important. I want to be involved in changes to a policy statement, but I also want the provision for our local council to have the flexibility to be able to make decisions within that and not be bound by it. That's our position.

Mr Hampton: What struck me about Mr Sewell's presentation is that he's saying, "Look, if you think that throwing this wide open is going to allow you to speed things up, it ain't going to happen." Throwing it wide open and removing certainties and taking out some of the rules that serve as guidelines will essentially mean you're going to have more free-for-alls. In locations where you've got active interest groups, whether on behalf of the environment or on behalf of certain types of urban development or on behalf of or against certain types of transportation corridors, you will have a free-for-all.

There aren't enough guide posts in what is being proposed here to help someone move something along, or there aren't enough guide posts for someone who's trying to do something to help them know up front whether they're going to succeed or not. Do I take it you're saying: "Don't worry about the guide posts. Don't worry about the upfront indicators. Don't worry about consistency"?

Mr Calvert: No. A provincial policy statement has the guidelines, goalposts, and I'm not disregarding it all. I'm saying that we can't be bound totally on every planning decision by them. There has to be the flexibility within those to be able to make local decisions. If we're bound by every policy statement, most of the decision-making and accountability at the local level is taken out of local municipal hands.

Ms Diane Horner: I'd just like to add to that. I think one of the intrinsic points we have tried to relay in our presentation today is that while we think it is critical to have provincial policy, we also feel it is very important at the local level in official plans, and we concur with Mr Sewell there, that official plans must be able to outline very clearly what information is required at the application stage. I think it's there that the municipality—and many municipalities are currently doing this—outlines the information that is critical for it as a municipality and for its residents to review a development application for their community.

While we're recognizing that it's important to have provincial policy statements, we're also stating very clearly that we think the local municipality must have the ability to outline what it feels is important for its municipality and be able to outline the information that it needs to review in reviewing a development application.

Mrs Fisher: I enjoyed your presentation and I do concur with your last statement with regard to global perspectives and allowing flexibility at the municipal level. I have one question relating to the presentation. The question is with regard to minor variances and how they're handled, whether it should be at the municipal level or whether it should be directly forwarded to the OMB. I'm just confirming something in the question. The major concern would be whether it's a time parameter as opposed to a potential conflict, conflict of interest almost, not necessarily pecuniary?

Mr Calvert: It's really both. I didn't want to elaborate on that, even though we spent a lot of time at committee and council discussing that point. Certainly there would be a time situation, where council right now would have to be an appeal body, have certain additional administrative staff and resources to hear them.

But also, as you're probably well aware, at committees of adjustment councillors get involved in submissions, supporting or not supporting applications. All of that would be gone, obviously, because they can't do that and hear any appeals as well. That conflict was another concern of council, because if they're there to be able to be supportive of the minor variance applications, that would be taken away. They had concern about that as well.

Mrs Fisher: My only follow-up to that would be: If you had a choice of whether you had a subcommittee of council which dealt with it individually first and then the right for final decision with council as opposed to the cost of OMB at a municipal level, burdened by the municipality, what would your choice be?

Mr Calvert: My choice would be a third option.

Mrs Fisher: Go for it.

Mr Calvert: Leave it the way it is. Don't take away the appeal provision, and let the board deal with them. On the other hand, some of the councillors in Mississauga may say, "Yes, but the board can make decisions that we're not accountable for and we're trying to get as many decisions back." But mine would be the third option: leave it the way it is.

The Chair: Thank you, folks. I appreciate your taking the time to come and make representation today.

1510

SCARBOROUGH HOUSING WORK GROUP

The Chair: Our next group up is the Scarborough Housing Work Group. Good afternoon, Mr Hum.

Mr Doug Hum: Thank you, Mr Chair. I'd Doug Hum, chairperson of the Scarborough Housing Work Group, and I want to thank you for this opportunity to address the committee on matters regarding Bill 20. Our submission with regard to Bill 20 will be focusing on the apartments-in-houses provisions.

Scarborough Housing Work Group has been in existence for some 20 years. We've recently been incorpor-

ated as a non-profit, community-based housing advocacy group. We are made up of community residents and community organizations who share our vision and our goals. Our purpose is "to promote and advocate for housing as a universal human right," and that is safe, affordable and meets a variety of needs. Our vision is to see a Scarborough that is truly vibrant and dynamic; that meets a variety of needs; that promotes and supports a high quality of life for everyone; that makes good use of developed lands; and that protects the environment. We are therefore addressing the issue from a Scarborough-based perspective.

Our working group has played important roles in meeting Scarborough's housing needs. We had a role in the development of Scarborough's first family shelter, Homeward Family Shelter, which opened its doors in 1990 to provide temporary shelter to families in need; the Robin Gardner Voce Non-Profit Homes, which allocates 35% of its apartments to women leaving violent and abusive situations; the Chinese nursing home in Scarborough; the establishment of Scarborough's Second Base Youth Shelter. We've been advocating for permitting apartments in houses for a number of years, and we have also supported land use planning that supports the development of affordable housing.

We strongly support the rights of homeowners to install second units in their homes if they so choose and the rights of tenants to live in such units when such units meet fire, safety and health requirements. During the hearings on Bill 120, the Residents' Rights Act, last year, two subcommittees of our group addressed a legislative committee in strong support of the basic premises of Bill 120. We continue to support the legalizing of apartments in houses as a right and the prevention of imposition of onerous standards which could prohibit the creation of such units.

We generally believe that apartments in houses are;

—Owner-friendly. They help people to pay mortgages.

—Senior-friendly. They help seniors stay in their homes.

—Renter-friendly.

—User-friendly.

—Environmentally-friendly. They help to minimize urban sprawl and allow people to remain in their homes.

—Anti-recession-friendly. They promote jobs and economic development.

The changing demographics in Scarborough make a strong case for legislation that facilitates and supports the development of apartments in houses as a housing option. The population of Scarborough is aging, with the number of elderly persons increasing. Metro reports indicate currently that 13% of Scarborough's residents are over 65. This is expected to increase considerably in the next century. As well, household size is becoming smaller. The family size has shrunk from 3.6 persons per family to 3.1. In addition, the birthrate has fallen below the replacement rate of 2.1 children per mother to 1.68.

As a result, the single-family home which used to house a traditional nuclear family may now have space for two separate units for two smaller households of relatively the same numbers of persons per single-family home. Seniors can have the option of taking in a tenant

to help with their chores and running the household. This helps to keep seniors in their homes and reduces the demand for building more seniors' housing.

A city of Scarborough study of such units, which began in 1989, estimated there were 14,000 illegal units at the time in Scarborough. The study was conducted by the consulting firm of Berridge Lewinberg Greenberg, and it was published in 1989. It found that this form of housing met a variety of needs of a growing and diverse Scarborough community from the traditional nuclear family to elderly persons, single persons, new Canadians, immigrants, first-time homebuyers, tenants etc.

The Scarborough study also pointed out there was popular community support for such units and its survey showed 65% of respondents supported such units. This is consistent with the Ministry of Housing survey of Ontario residents which indicated that 73% of respondents favoured allowing homeowners to add a rental unit as a way of providing affordable housing.

The Scarborough study also pointed out that communities will not be overwhelmed by these units. The study estimated that some 200 to 400 units per year may be created in Scarborough, which is well within the capability of the municipality's infrastructure to absorb. This low level of conversions is consistent with the Ministry of Housing's findings in a survey of municipalities with a population greater than 5,000. This was released in September 1995. This ministry survey covered the period from July 1994 to June 1995 and estimated across the province that 433 new apartments in houses have been created, with another 119 units being upgraded.

These units contribute to job creation and economic development. Apartments in houses generate employment and create jobs for the renovation industry, building trades and suppliers of household goods. A Metro planning report indicated that based on the proportion of homeowners receptive to the idea of conversion, that is, approximately one in eight, a theoretical potential of 39,000 units might be made available in Metropolitan Toronto.

Based on this number of new units, we estimate the total construction value to be some \$650 million in Metro Toronto alone. Based on Scarborough's estimated 14,000 units that currently exist, upgrading of the units could also generate another \$60 million in renovations. These units will generate demands for household appliances, generating additional direct and indirect economic activities.

We also understand that the federal government is setting aside another \$50 million for its residential rehabilitation assistance plan, the RRAP program. These moneys could be of assistance to low-income seniors and again it is of benefit to the renovation and building industry, putting people to work.

The job creation and economic development aspects of apartments in houses makes a strong case for not unduly inhibiting the creation of the units and for realizing the Minister of Housing's call for economic recovery by cutting "red tape and getting rid of obstacles to growth."

Both the ministry and the Scarborough studies' findings indicate that there will not be an avalanche of applications for conversions which will overwhelm

municipalities. However, the applications will be extending over a number of years, providing steady employment at a consistent level over a period of years. It is important not to create legislation that will dampen the contribution to economic recovery that apartments in houses will make. We are concerned that Bill 20 might do this.

The proposed changes to the Residents' Rights Act in Bill 20 troubles us. We believe that the removal of the as-of-right provisions of the Residents' Rights Act will create undue obstacles in creating apartments in houses. Our experience leads us to believe that municipalities will cater to the wishes of property owners over that of tenants. Tenants are taxpayers, too, and should have access to units that meet fire, safety and health requirements, without fear of eviction because the municipality may not like such units and will place obstacles at their disposal to prevent such units.

We are also concerned that Bill 20 brings out other aspects in the community. From our experience in hearings at the municipal level, it brings out those who are prejudiced against minorities, who do not like people of colour. They have said to us, directly to our faces, "We don't want such units in our neighbourhood because they bring people of colour into our communities." One also blatantly said to us: "The people moving into such units are totally different from the people who live in my community. They don't look like the people in the community, they don't dress like us, they don't eat the same food, and they would not fit in." We should not cater to such blatant racism and prejudice, and we must give every support we can to those who are in need of affordable and safe housing.

In summary, apartments in houses exist. They are needed. They will continue to exist and be needed whether or not any government chooses to recognize them. The failure of municipalities to acknowledge this important fact only serves to ignore the realities of people who own and occupy these units. People often have a basic ability to find ways to meet many of their needs, even if it has to be through an underground economy such as an illegal unit. Local planning does not respond well to those in need of such housing, in our experience. They have failed to recognize that whole groups of people have been prevented from accessing affordable housing. It seems that these people don't count and therefore have been forced to live in illegal situations due to a lack of money or a lack of resources or options, leaving them few options but to rent an illegal unit.

To prevent these situations from continuing, we respectfully request the committee to maintain the as-of-right provision so that both tenants and homeowners can continue to benefit from the legislation that supports rather than discourages the creation of such units.

1520

Ms Churley: Thank you very much for coming to present today. We haven't heard a whole lot around this issue so far today, and it's good to hear your point of view on that, given your background in the community with people who need affordable housing.

I want to ask you a general question, and you touched on it a bit. I am having a lot of trouble understanding this one. The Tory position—I understand that it's philosophy,

dogma, what they believe in, but this one confuses me a bit. It's an astounding move, given that this government is saying very clearly—Al Leach has said it time and time again—that it's getting out of the affordable housing market. They don't want to be in it. They want to see the private sector create affordable housing.

Yet we know, notwithstanding even some of the changes they're making in deregulation, that there's a problem for the private sector, especially in these economic times when we're about to see a made-in-Ontario Harris recession because of some of his policies. We're not going to see much affordable housing created, if any, by the private sector. We see people now out on the streets more and more—families, kids ending up in motels, cramped hotels.

And it's a government that says it wants to cut red tape and get out of private people's lives. Here we have an opportunity for people to pay off their mortgage, to help deal with the affordable housing problem, and the government is saying: "No, you can't do it. We're going to let the municipality decide that." But they're allowing municipalities to be in the faces of private homeowners who could be benefiting the community.

It just doesn't make sense in terms of the overall Tory philosophy. I want your view of what you think is happening here. Why do you think this is thrown in the midst of all this other stuff?

Mr Hum: We view this as a private sector response to housing needs. It is not government housing. It doesn't involve government spending, other than perhaps expenses for inspection, fire inspection, and these may be recovered fees. This is a private sector response and it's a community-based response. People in homes are seeing their own needs in terms of paying down mortgages and maintaining their houses. The aging population, seniors on fixed incomes—what other resources do they have? They have to look for other means. Renting out an apartment in their house provides that opportunity. It allows them, as I mentioned, to take in somebody to maintain the property, and income to pay for property taxes and general maintenance on the house.

Ms Churley: It doesn't make sense. Where do you think the pressure is coming from? Do you bring it back to what you say in your paper, that there has been pressure on some municipal mayors and councils to keep certain people out of their communities? That's a pretty serious accusation.

Mr Hum: I pointed that out. At local municipal deputations, deputants told us to our face, "We don't want these people living in our neighbourhood." You can't cater to that. You have to oppose that. Housing is a universal basic human right. Communities should be accessible to all kinds of people, no matter where they're from. The United Nations has defined Metro Toronto as the most multicultural city in the world. There's no other place like it. The world is reflected in the faces of all of us who call Metro home. We should provide means to accommodate people and make it easier for them to live. We're not advocating substandard housing; such housing must meet standards of fire, safety and health. We've always stated that.

Ms Churley: Do you fear we'll go back to the bad old days of a whole lot more illegal basement apartments, hidden basement apartments, and the serious concerns about fire hazards that go with that?

Mr Hum: Our concern is that it will drive people back underground if you don't allow it as-of-right, and then people will again be in unsafe conditions and there may be more fire deaths. It's human lives at risk that we're concerned about.

Mr Hardeman: I just want to go quickly to page 6 of your presentation: "Our experience leads us to believe that municipalities will cater to the wishes of the property owners." In your estimation—or do you have figures that the majority of the two-unit buildings are occupied by tenants in both units as opposed to a property owner and a tenant?

Mr Hum: A Metro report indicates that something like 92% of single-family homes in Scarborough are owner-occupied. That leaves roughly 8% that may be absentee landlords, so the owner may not be in those, which is a very small proportion. Most people who rent out units tend to live there, based on those statistics.

Mr Hardeman: So it's reasonable to assume that most of those houses are owner-occupied with a unit in it. Do you have any figures on whether that unit in turn pays more property taxes for the services consumed? Talking about total services consumed and everybody paying their fair share, do property taxes go up when a unit is added to the house?

Mr Hum: I guess an application for a building permit would have a bearing on that. From what I understand from a previous Scarborough planner, Mr Peter Poote, such units are taken into account in the assessment, in the mill rate. I'm not exactly clear on that, but a previous planning commissioner indicated that. So taxes may very well be collected on those second units, whether they're legal or not.

Mr Smith: It's very clear from your presentation your view on implications of the removal of the as-of-right, and certainly from the bill the government's position on restricting the second unit. Those two positions established, do you have a vision, an idea, of how this whole issue might be better managed? Assuming the municipality is going to play a larger role, do you have a vision yourself of how we might manage that process?

Mr Hum: Bill 120 facilitates and helps the owner; there is a number of factors there. Our experience is that if you make it onerous, it remains underground; the owner will not surface. It puts both owners and tenants at risk, and this would be our concern.

Mr Jerry J. Ouellette (Oshawa): Thank you for your presentation. You specifically related fire, safety and health. Do you not believe the municipality should have some authority in other areas? I happen to live adjacent to an area that has a high density of second units within the households, and to be quite honest, I think the statistics would show it's quite the opposite of what you're saying: that 90% of the homeowners do not live in those areas. Do you not think parking—that the municipality should look at those areas as well?

Mr Hum: This is based on Metro reports and Metro assessments. I don't know if you live in Metro, but 92%

of homes in Metropolitan Toronto are owner-occupied in a single-family home. We're dealing with a very small percentage: 8% may be absentee landlords, and of that, some numbers may not meet safety standards. But we have always stood strongly in support of seeing that such housing meets fire, safety and health standards. The current housing standards bylaw, building code requirements, health departments—these regulations can govern the adequacy of such units in terms of health, fire and safety.

Mr Ouellette: So you don't think a municipality would be looking at parking or other areas as well?

Ms Churley: People who live in basements don't usually have cars.

Mr Ouellette: That's not true.

Mr Hum: I understand that to own and operate a car in Scarborough costs roughly \$7,000 a year. Most people living in accessory units are working-class people and tend not to own cars in any great number. It's the homeowners who tend to own cars in greater numbers.

Mr Ouellette: I think that could be part of the problem. This is a province-wide issue. Maybe in Metro they can't afford cars, but in my community they certainly can.

1530

Mr Hum: Given the fact statistically, we understand that those living in such units tend to be of lower income, tend to rely on public transit more.

Mr Gerretsen: I'm confused about this whole issue, I'll be quite honest with you, because the Conservative Party is the rights party, the rights-of-property party, you should be able to do as you want with it, and yet here they're trying to impose something which will only make it tougher in effect for some people to rent accommodation. Basically, if these 14,000 units were closed down by the legislation, and I'm not saying that they are, I would assume that a lot of these people would either be paying more rent if they were housed somewhere else or—what would happen to them?

Mr Hum: With the vacancy rate plunging below 1%, I fear to think of what might happen. My office is near Kennedy and Eglinton, and the bus shelters after 2 o'clock become emergency shelters. They're occupied by people at night, even in these kinds of weather conditions. We may even see more of that. This would be my concern.

We have to try and look at means of providing housing in the most creative form we can. This is a private sector response. It doesn't involve any government spending. It's a community-based response.

Mr Gerretsen: Obviously your fear here is that if you left it strictly up to municipal control, then municipal councils may be influenced by certain segments within that community that would force these units to close, or force them to pass a bylaw that the units wouldn't be allowed at all or any new units couldn't be created, which seems to run completely contrary to the ministry's own survey which in 1992 indicated that 73% of the people had no problems with allowing homeowners to add a rental unit.

Mr Hum: That's right.

Mr Gerretsen: I wonder, Mr Chairman, if that information could be made available to us, the housing survey that refers to, because it's not all that old and maybe it's got some other interesting information in there. I wonder if we could maybe dig that out.

Do you have any ideas why this is being pushed this way then, when that particular survey, which is less than four years old, would indicate that almost three out of four homeowners in the province would support having a second unit in a house?

Mr Hum: I believe it is a response to a very vocal minority who are very prejudiced against low-income people, against single parents, against people of colour, against people of different backgrounds, who as they've told us don't fit into their communities. We've got to start looking at communities as being inclusive and start breaking down barriers that prevent people from living in their own communities. We feel that the previous legislation was moving in that direction.

Mr Gerretsen: What's your experience in Scarborough? I come from a community like Kingston where a lot of these units are occupied by students. There is some concern within that community that if you had two units within a house that was at one time a single-family residential unit, you could have as many as 10 students, I suppose, in a house, and it does create a certain problem in some neighbourhoods, etc. Do you have that kind of problem in Scarborough?

Mr Hum: I would assume that health standards would come in in terms of overcrowding and that fire codes would govern how many people can occupy a house. These are set, I would assume.

The Chair: Thank you, Mr Hum. We appreciate your taking the time to make your presentation here today.

Mr Gerretsen: On a point of order, Mr Chairman: Can that information be made available?

The Chair: I'm told that the ministry will be pleased to make that available.

CITY OF SCARBOROUGH

The Chair: Next up is the city of Scarborough, represented by His Worship Mayor Frank Faubert. I would say this is not a good time to try and get hold of your Scarborough councillor. Greetings to you all. Frank brought the entire cheering section down with him today.

Mr Frank Faubert: They insisted on coming.

The Chair: Our pleasure to have them down here.

You have 25 minutes, as you see fit, to divide between a presentation and questions from the three caucuses.

Mr Faubert: I'm here with Judy McLeod, director of strategic planning and legislation for the city, and Frank Weinstock, director of property standards and bylaw enforcement. I'm joined by some councillors, as you pointed out: Councillor Brad Duguid, Councillor Ron Moeser, Councillor Harvey Barron and Councillor Bas Balkissoon, who are all members of council who have had an interest in this legislation, indeed in all aspects of planning.

I should tell you, first of all, that we certainly appreciate the opportunity to present our views to committee.

The city of Scarborough supports the initiatives of Bill 20 to promote economic recovery, cut red tape and get

rid of obstacles to growth, because we've been attempting to do just that. The city of Scarborough has done it quite successfully. We've cut red tape; we've streamlined our planning process; we've incorporated a corporate incentive plan; we've engaged in a program to reform our zoning bylaws to make it easier to do business in Scarborough; and we've entered into successful partnerships with local businesses and with communities. All these have resulted in renewed confidence and economic activity in the city.

I'm pleased to see the government of Ontario is taking steps to remove these bureaucratic obstacles.

At hearings on Bill 163, Scarborough and many other municipalities expressed concern with regard to the "shall be consistent with" terminology. Bill 20, in changing the wording back to "shall have regard to" will allow municipalities to consider all aspects of provincial planning policy statements and apply them appropriately, taking into account local circumstances and objectives. We support the revised provincial policy statements that are shorter, less prescriptive, focused on outcomes, and only setting out clear areas of provincial interest.

In 1994, it was Scarborough's position that the Ontario Municipal Board should not be burdened with appeals on minor variances. We know the results of that.

I'm trying to summarize this as I go through it, because you have a copy of the submission in front of you—at least I gave it for your information.

We want to avoid the backlog of variance appellants waiting for their day in court before the board. I'm pleased to see that Bill 20 would allow council's decision on variances to be final, and I certainly hope the legislation will follow through this time.

I strongly support the move to restrict the term "public body" to the Ministry of Municipal Affairs and Housing. We all know the criticism of the provincial government, the silo theory of ministries. We know that in recent years municipalities in the development community have been critical of fragmentation and the lack of coordination of provincial responses. The interests of various ministries have often not been communicated, one to the other, which has been one of the great problems, and ministries often appear at cross-purposes.

Municipal interests and economic growth have fallen victim. Indeed, we have some examples in Scarborough where we have had approval from the Ministry of Housing and at the last moment, the Ministry of Environment comes in and says—this is after the approvals by planning—"No, we have some concern; we want to review that again." It throws the whole process into disarray and delay.

Scarborough supports this attempt at provincial coordination, but I would caution you that we don't want the ministry just to be a postman that collects all the responses from the various ministries and sends them on that way. They have a responsibility, obviously—the Ministry of Municipal Affairs and Housing—to properly coordinate the provincial interests, to analyse the requests that come forward and send forward the coordinated response to the municipalities.

Several ministries have declined to comment on municipal initiatives such as official plan changes until

they're adopted by the local council. I alluded to that before. The Ministry of Municipal Affairs and Housing should be called on to play the role of coordinating responses on matters of provincial interest.

Then we have exemptions from approval requirements for official plans and amendments. This is supported: the provisions that would exempt official plan amendments from the requirements for approval.

This is by regions. In 1994, we requested that local municipalities within Metropolitan Toronto should be the final approval authorities for official plan amendments. We did not concur then, and we do not concur now, with Metro's request to be the approval authority. It's interesting, with the revisions that we're having in the Golden report on the GTA. I would say that position is probably supported by every municipality within the GTA. They agree they do not want this second approval level, a second regional approval. It's a duplication of public hearings, it's costly and it simply delays the process. The authority should lie at the local level.

1540

We know this would substantially streamline the process, especially for amendments that clearly do not involve matters of provincial concern. I would request the ministry meet with representatives of the cities within the Metro area to determine the classes of official plan amendments which should be exempt to expedite this initiative.

In addition, we reiterate our request that large, sophisticated municipalities in the Metro area, municipalities with professional staff capable of performing the functions required of an approval authority, be also granted approval authority for plans of subdivision and condominiums.

On the issue of apartments in houses, with the changes to the apartments-in-houses legislation proposed by Bill 20, my council has asked me to present again a series of items it thinks are necessary to enable municipalities to develop a responsible, fair and comprehensive policy to deal with the matter. It has been our objective to ensure a high quality of life and a safe environment for the occupants of second units and for their neighbours.

There is an ongoing concern for the ability of staff to enforce our property standards bylaw, particularly as it pertains to right of entry. In this context, we are urging the government to undertake a review of section 31 of the Planning Act.

Municipalities must have an enhanced capacity to enforce standards through greater powers, streamlined procedures and the ability to recover the costs of administering this process. Council and the public both wish a quicker, simpler and more responsive system; that is, a less costly and more effective system.

Where appropriate, the enforcement procedures related to property standards should be harmonized with the building code and other applicable sections of the Planning Act. We propose that areas which require review include the need for a notice of violation prior to the issuance of an order; alternative forms of service; the appeal process itself; liability for the costs of inspections for recurring violations and repairs undertaken by municipalities; court orders for repairs; and fines.

The city's zoning, property standards and building inspectors must have reasonable and effective rights of access to dwellings for the purpose of inspection for compliance with the Ontario building code and local bylaws. We need to get into units to make sure they are safe. That is why Scarborough council asks that subsection 49.1(1) of the Planning Act be amended to add a statement that the province will adopt regulation guidelines on the kinds of evidence which may be used to satisfy a judge or justice of the peace with respect to the issuance of a search warrant under municipal bylaws, for example: assessment roll data, telephone or cable connections, doorbells, letter boxes, real estate listings, voters' lists and sworn affidavits from neighbours. Obviously, we don't intend to fetter the discretion of a judge, simply that some guideline may be necessary which to weigh a decision against.

Even if officers can get in and identify problems, there's a major problem in enforcing standards and upgrading units. Landlords may decide to close a unit down instead of upgrading it, meaning people may lose their homes. To avoid this, Scarborough suggests that the Landlord and Tenant Act and the City of Scarborough Act be amended to provide that a landlord's refusal to comply with the building and fire codes and municipal bylaws may result in the relocation of a tenant and/or the municipality may undertake the needed repairs, with all costs being recovered as taxes, obviously against that dwelling unit.

The Landlord and Tenant Act should be amended to provide the ability for a homeowner to evict an incompatible tenant from the second unit.

Scarborough also requests that the province enact the following measures to help us enforce our bylaws more effectively: create a municipal bylaw court to deal with all bylaw infractions and building code violations; amend the Planning Act and Municipal Act to provide so that the costs of work carried out under a municipal order can be recovered or shall be recovered as taxes; amend the court procedures to permit a prohibition order to be enforced by the court granting such an order. We can get an order, but if it's unenforceable, obviously it's not worth the paper it's issued on.

Although the city of Scarborough will be making future presentation on private member's Bill 11, I would like to point out in the context of my remarks here today that if Bill 11 is adopted, the moderate provision for entry provided for under the Planning Act and reaffirmed under Bill 20 becomes moot. Interestingly enough, it also affects other legislation, such as the Fire Marshals Act, the public health act etc. So I would ask that the Legislature consider that when it considers Bill 11.

Of particular concern are the provisions contained in Bill 11, section 2, most notably section 9.3, which provides that, "No one may enter on another person's property or take anything from it without the person's express or implied consent." Clearly, this provision is contrary to the provision in both Bill 163 and Bill 20, which allow bylaw enforcement officers some limited powers of entry, and it should not be adopted.

Our residents have also told us that they want apartments in houses to pay their fair share of taxes for the

services they receive. Second units should be assessed appropriately to reflect the increased market value of the converted property; in other words, to assess them for property taxes as duplexes in comparison with other duplexes under the Assessment Act.

Scarborough requests the province to:

(1) Amend the Assessment Act to provide that the units in absentee-owned houses with second units be assessed as businesses;

(2) Amend the Development Charges Act to permit municipalities to levy development charges on additional dwelling units.

I'm pleased to see that the bill will allow municipalities to set up a registry of two-unit houses and that we will be able to require all such dwellings to be registered or to cease operating as two separate units. The registry will enable us to inspect units regularly to ensure that they are safe and indeed to meet other standards.

In closing, I would point out that appended to this submission is a list of council's outstanding issues. I won't read them; it's a long one. I certainly won't read all 14 of them, but I would put them forward for your information when you further consider the bill.

Thank you very much. I'm quite prepared to answer any questions.

Mr Galt: Thank you for the most thoughtful and most interesting presentation.

Almost every presentation has either agreed with or disagreed with the words "shall be consistent with" or "shall have due regard for." There's no question of what we're trying to do. We want to have some certainty, we want to have some clarity, we want to have some guidance, but at the same time we don't want—at least in speaking from the government side—the hands of local municipalities totally tied, that there can be, in exceptional, special circumstances, the opportunity to have that flexibility there.

Have you any other words that might come in between there, since people are either agreeing or disagreeing? Is there any grey, are there any other words that come to mind that might be used to describe what we're trying to accomplish?

Mr Faubert: We agree with "shall have regard for." I would ask Ms McLeod if she has any comment on this, because we debated this also at great length.

Ms Judy McLeod: I believe that "shall have regard for" is acceptable wording if people do have regard for and take seriously the provisions of the policy statements. I'm not sure that "have regard for" has really been tested at the board against "shall be consistent with," but we have found that in dealing with staff of various ministries, there's been more interest in putting specific words into an official plan amendment or a statement, rather than taking into account the overall objectives of the municipality and the development community. I think as long as everyone takes seriously "shall have regard for," it is suitable wording.

Mr Galt: Okay, I was just curious. Even the words "be consistent with" don't mean it's going to be the same. There's uncertainty there as well, if you really start thinking through on that particular wording.

The other question, if I may, relates to the second dwelling within a home. There's been quite a bit of concern at these hearings over that one in the past. We're asking for registration. What have been some of the problems that you've experienced in having these apartments in houses that I guess in many instances you're unaware of and find out about later on? Has it been a real frustration in your community?

1550

Mr Faubert: We feel we have a pretty good handle on the numbers. We estimate between 10,000 and 13,000 of these in our city. The major problems have been non-owner-occupied or absentee landlord or multiple occupancy, over and above two units, for a single-family dwelling. That's the real issue. The average person who has a second unit would conform to these regulations and to the legislation, as we see it.

The major problem, as I point out, has been absentee landlords and the real overoccupancy of homes. We find, in terms of enforcement, usually someone has more than one. If someone is in this business, and so many of them are, they have multiple-occupancy homes in which they are truly absentee landlords, but they also have the legal wherewithal to fight the city on a continuing basis. Those are the problems that we really have with second units.

In the majority of second units, though, where persons who own the home have a second unit, they are the enforcers, if you wish; they're the ones who ensure that the standards are there, in most cases, that the parking is not a problem, that it does not become a problem within the community or within the neighbourhood. That's about the issue, quickly stated.

Mr Gerretsen: Dealing with the second-unit issue first, I take it then that this has not been a major problem in Scarborough. We heard earlier from a Scarborough housing group that they felt that if municipal control was given over this issue, in effect it would lead to a greater need for housing, particularly by the more unfortunate in our society. Do you have any comments on that?

Mr Faubert: In terms of it not being a problem, there is a problem, as I pointed out, in terms of non-owner-occupied, the second units, and I think it's a fairly clear one. In terms of the municipality taking on—I think we're as sophisticated a municipality as any in Metro Toronto. We have the wherewithal to administer legislation as a municipality and I don't think we would create a problem with these. As a matter of fact, there's concurrence within the municipality, within the majority of residents, that they're not a problem in most circumstances.

There are exceptions to this and there are exceptions, as I pointed out, where someone is exploiting the housing market and owns a number of these, simply overoccupies the residence. We've had situations where we've had as many as 15 people occupying a single-family residence. These are problems of owners.

The second issue is the enforcement of the bylaws themselves, simply because of the way the courts perceive municipal bylaws, indeed how courts perceive the right of evidence and the evidence that they will accept. As you know, in many cases the department of health can

go in and the fire department can go in, but the courts cannot accept their evidence of what they see. Our property standards must go in and then collect their own evidence and lay that evidence before the courts, and in many cases we don't get even the satisfactory judgement from the court itself.

If you wanted, I could ask Mr Weinstock.

Mr Gerretsen: I take it that the real problem deals more with property standards matters and occupancy standards rather than with the notion that people in a single-family area just don't want their neighbours to have an extra apartment in their unit.

Mr Faubert: Very much so. I think that is the issue.

Mr Frank Weinstock: Yes. The nature of the concern is where the extra units have garbage, debris, noise, cars. Anything that spills over and impacts on neighbours bothers people. If you have two self-contained units and the people are responsible and don't impact on their neighbours, most neighbours don't mind.

Mr Gerretsen: There's one other issue, and that deals with "be consistent with" and "having regard to." We had Mr Sewell here earlier today and he basically said, "Well, if the wording is changed to 'have regard to,' you can take a look at it and totally ignore it and say, 'Well, that's it; we've taken a look at it and we just don't think it applies here, or 'We think that there are other issues that override that particular policy statement' etc." What's your comment on that?

Mr Faubert: We're happy enough with "shall have regard for." We think the issue of responsibility of taking into consideration is covered within the words "shall have regard for." That is quite direct.

Mr Gerretsen: But he pictured a scenario.

Mr Faubert: John always pictures the worst case.

Mr Gerretsen: Just a minute, now. He gave the example of the Greenwood Race Track that's being redeveloped. The developer went in there and basically wants to put a housing development in that is in accordance with the official plan and it's in accordance with the current policy statements and council goes along etc. But in effect, if we change the wording to that as suggested in the bill here, it would give a greater voice for the people who are in opposition, because there wouldn't be any standards at all and the OMB would throw it out. What's your opinion on that?

Mr Faubert: First of all, I never try to outguess the OMB. That's the first rule. As you know, John, in your tenure with municipal politics—

Mr Gerretsen: You don't like the OMB, is that it?

Mr Faubert: That's right.

Ms Churley: I appreciate your coming down to give us your position on the bill. I'm going to come back as well to the wording around "consistent with" or "must have regard for," because it isn't just mere wording, as I understand you fully realize. It's quite, quite significant, and I think the reason why people keep bringing it up is that they really need to understand the implications.

I understand that Ms McLeod has said it's fine as long as people adhere to it. In fact, therein lies our concern, my concern. Perhaps you will, but there are lots of tiny municipalities that don't have budgets—there are other

kinds of pressures—that won't adhere, and what you have is a patchwork of, in some cases, very bad planning.

I think we mustn't forget that in the process of the consultations that led to this bill, more autonomy was given to municipalities, as you know, in terms of their planning. You don't always have to come running off to the province for approvals any more. But there was a tradeoff associated with that: that your policies would have to be consistent with the provincial ones.

I think that's fair. That way, when you have more autonomy, there is some and it should be broad guidelines or policy statements. Obviously, as people are saying, you can't have a policy statement that is too complex or it just won't work. But for that very reason, to get more autonomy, there needs to be some consistency in the planning or you're going to end up in a mess. I submit that what's going to happen in this rush to just "have regard for," because it feels like you have more autonomy overall, people are going to end up in real messes, that there are going to be more OMB hearings, there are going to be more disputes.

There are going to be municipalities that are not adhering to—"We're going to have a look at it, throw it down and say, 'Okay, let's ignore that and move on.'" It'll open the door for a lot more appeals because you won't be able to use—the example that was given about Greenwood; we all know what happened there.

It can help developers too, you know. Perhaps not Scarborough, but many municipalities are going to have this problem where they won't have that to fall back on. I think people are really going to get caught. I really wonder if you have a response to that. Maybe it won't be for Scarborough, but overall, do you see what I mean about the tradeoff here?

Mr Faubert: Yes. I think you make a point probably in terms of provincial-wide legislation as opposed to how we see it affect our municipality directly. That comes back to the whole philosophy on Bill 163 and why they should "be consistent with" broad guidelines as opposed to "have regard for."

We've debated this at great length in the municipality and we felt that we would rather have "shall have regard for." We think that still gives us a better provision for taking into consideration what we consider, like local provisions.

1600

This may not ever be resolved because, like all legislation, you can argue words until somehow it's put into place and there's some test case taken of this. But our preference is "shall have regard for," the amendment as recommended.

The Chair: Thank you again. I didn't set out to make this Scarborough Day here, but I see more positions down the road. We have the Save the Rouge as well.

Mr Faubert: In light of that, I should point out that we have another councillor, Councillor Watson, also in Toronto today, I understand. He's back there somewhere.

The Chair: Excellent. Many times have I visited your house and made representations. It's good to see you down here in the lion's den, and you're welcome any time, of course. Thank you all for coming down today.

FEDERATION OF METRO TENANTS' ASSOCIATIONS

The Chair: Our next presentation will be from the Federation of Metro Tenants' Associations. Good afternoon. We have 25 minutes to be divided, as you see fit, between presentation and questions and answers.

Mr Neal Ballo Singh: Ladies and gentlemen, members of the committee, I just want to spend a few minutes to deal with the Residents' Rights Act part of this amendment that is being proposed. I will be pretty brief on this presentation. My name is Neal Ballo Singh and I am a tenant organizer with the Federation of Metro Tenants' Associations.

The Federation of Metro Tenants' Associations is a 21-year-old tenant organization. We represent over 100 tenant associations including 6,000 members across Metropolitan Toronto. The federation does work with many housing groups and has made several presentations to standing committees regarding residential housing issues. We were also involved with proposals to government and continue to assist tenants through ongoing education on Bill 120.

Over the years we have spoken with hundreds of tenants about their experiences living in accessory units without any protection from the Landlord and Tenant Act. These tenants' experiences range from various forms of intimidation to forcible evictions. Tenants of pre-RRA units have consistently voiced their concerns around issues of harassment by landlords with respect to lock-outs, rent increases and privacy violations, without the benefit of legal recourse. For these and other reasons, the federation was extremely pleased when the Residents' Rights Act was introduced. The act offers important protection to thousands of new tenants across the province. Finally tenants could breathe a sigh of relief and stand up for their rights.

Government now proposes to repeal subsection 35(1) and return the power to allow or disallow the creation of much-needed second housing units to the whim of local municipalities. There are as many as 150,000 tenants living in second units across the GTA. What efforts did municipalities make to help protect the tenants living in these units before Bill 120? How will these tenants, along with the many hundreds more who will continue to rent and live in accessory units, be protected if the RRA is repealed? Municipalities disallowing the creation of these units through zoning bylaws will not prevent landlords from renting their units, and people will continue to seek housing wherever they must. The knee-jerk repeal of subsection 35(1) will force tenants to be disempowered again, create new uncertainty, and force a return to illegal, unsafe housing conditions.

The federation is strenuously opposed to the repeal of this important piece of tenant protection. We feel that democracy demands that citizens must have the right to choose where they wish to live, without mandatory constraints by government. These zoning powers suggest the inherent right of government to choose to discriminate against a tenant's fundamental right to secure affordable, available housing.

We understand that tenants living in apartments in houses prior to November 16, 1995, will be allowed to

continue and will still be covered under the RRA, provided that the landlords meet building and fire and safety standards. This suggests that the provincial government sees nothing wrong with homeowners providing safe, affordable second units or with tenants living where they choose. It further suggests that government understands the need for tenants living in these units to also have their rights protected.

If so, why would government waste time and money on dismantling tenant protection and erecting barriers to opportunities for more affordable private housing units? The RRA is about landlords, tenants and building safety. It is not about land use matters or municipal zoning policies.

We further understand that homeowners wishing to add new units to buildings will need local municipal approval and will be granted this where building and fire safety standards are met. Then why not allow the conditions of these safety standards to determine the whole approval process? In this way there would be no need to control where apartments may or may not be created by any municipality. Tenants could themselves safely report living in a second unit, and the need for protection of those living in second units would be addressed. This may also help the government to streamline an already complicated city bureaucracy and assist tenants in more practical ways.

The federation believes that this whole issue has little to do with problems that may or may not arise from the creation of second units in houses. The opportunity for city housing officials to register apartments and inspect for building and fire safety concerns is already within the jurisdiction of the local municipalities. They must look for practical ways to accomplish this. We are not aware of any study pointing to overwhelming problems arising from those apartments created since the passing of the RRA, and if it's not broken, why try to fix it? Efforts to repeal this section of the legislation are therefore unwarranted.

A reasonable person could assume that if tenants and landlords are satisfied with the RRA and desperately needed private affordable housing units are being created, government would celebrate and encourage this initiative, a major point being that Ontario suffers more from a critical shortage of affordable housing and less from a housing shortage itself.

Also, we would ask the committee to focus its efforts on what is in the best interests of the people of Ontario, without restrictions by the political ideologies of any government. After all, we know that tenants do need and will continue to seek out apartments in houses, regardless of municipal zoning bylaws. By the same token, homeowners will continue to offer their units to let, wherever and whenever they wish. We also know that if these tenants could afford to own their own homes or pay higher rents elsewhere, we would not be here today.

Finally, knowing all this, the federation believes that at the end of the day all tenants will still need to have housing protection. We therefore suggest that this committee has the opportunity and a responsibility, in making its final recommendations, to ensure that this very important piece of tenant protection continues.

On behalf of our membership, we wish to thank the committee for the opportunity to speak to this important issue.

Mr Hoy: You mentioned the government's stance on this issue of apartments in houses, as they're suggesting, prior to November 1995. It brings up an interesting question as to why the change, or the change of view.

However, you have said these are affordable houses. It's my belief that they are probably even more than that. I don't think the rents are very high in many, many cases, probably extremely low compared to what we see in the general rule of things. What do you think would happen if these second-tenant homes are assessed in any different way?

Mr Ballosingh: I don't think that anything would necessarily happen differently. I think that if they are assessed, the landlords may pay higher taxes and they may adjust the rents to reflect those higher taxes on the tenants. But the tenants would still be paying reasonably low rents, even in that situation, as compared to trying to rent a single apartment in the city.

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Mr Hoy: They would be able to afford these small increases? Do you think they would?

Mr Ballosingh: I certainly believe they would and it would be preferable to them, as some of them would like to remain in these communities rather than down in the major urban city areas as well.

Mr Hoy: Certainly I, myself, would agree with fire and health safety being enforceable. What's your opinion on the issue of parking?

Mr Ballosingh: When I came to this country I had to rent a basement apartment myself because it was the only thing I could afford, and my experience was that there was adequate on-street parking in most cases. As well, there were instances where landlords lived in the houses, and many of them didn't own cars but had parking and they rented the parking to the tenant. So I, in that case, paid for parking in the landlord's spot because the landlord didn't have a car. You have a whole variety of cases that take place. It does not necessarily mean that there's going to be no parking available if people are renting second units.

Mr Hoy: The renters of these units, would they run the gamut of society? I know that many have said that they tend to be elderly or at the lower income scale, but would there not be other people using these as well? Could it be the same percentage as there is in all of society, or is it mainly the lower-income and/or elderly people who are renting these?

Mr Ballosingh: It may be mainly them, but I don't like to focus on the fact that it may be mainly them. Generally, the idea is that a lot of people who are just starting out need to pay lower rents, and as they begin to establish themselves and save some money, they are able to move out and to rent bigger apartments. So in that sense it is a transition-type of situation for most people. From that perspective, everybody who starts out starts from a low-income situation. But it is very important from that perspective.

Mr Conway: This is a subject that has bedeviled governments and legislatures for some time. We were led

to believe here earlier today that in metropolitan Oshawa, for example, there is some kind of a parking tangle as a result of basement apartments. I remember a couple of years ago being in Stratford and hearing from municipal people that they were really concerned with the previous government's initiative in this respect, that it would put all kinds of pressure on water and sewer services. The parliamentary assistant today has hinted that perhaps owners and tenants in these basement apartments are getting a bit of a free ride in terms of assessment and taxation.

You make quite an eloquent case for entry-level housing, which any of us who has ever been a university student I think certainly appreciates. My friend and colleague from Kingston is not here, but anybody who knows anything about Queen's University appreciates something of what these units have meant in that community.

But how do you deal with the charges that are made that I think I probably summarized generally just a moment ago, that there is a kind of unregulated chaos and a bit of a free ride and God knows what else?

Mr Ballosingh: I suggest that if there is, it is because it has been forced to be that way for the longest while, and we're looking to try and make that different now. The argument about parking and all those different things, and strain on the community, I don't think it's valid really as a serious argument. There are instances where these things occur, yes, but by and large I don't think that is a major issue. There are apartment buildings right now that are not basement apartments, sort of duplex-type things, where the same problems occur and there's not enough parking available for the number of people who are renting from them. The landlord is renting a place that has a parking lot that can only take four cars and there are people living in the building, 12, 15 people who have cars renting units. They end up having to look for street parking in the same way. So you can't point at basement apartments or second units and say that they are the cause of this kind of problem. I think that's a red herring type of argument.

Mr Hampton: In this debate, if you can call it that, I've heard a lot of excuses about why apartments in this kind of situation shouldn't be permitted, but upon further analysis, that's what they turn out to be; they turn out to be excuses. So let me ask you this. What, in your view, is the real reason? What's the rationale behind all the smoke and the excuses for prohibiting the establishment of these kinds of apartments?

Mr Ballosingh: I think there are two major rationales for it. One is that it has been consistently something a few people have complained about because they would like to keep their areas a certain way and prevent certain types of people coming into their areas. They have raised their voices in that way, a small minority group of people, and they have had politicians react to them. Maybe they've been influential in that way with the politicians.

That's a small part of it, maybe less than the fact that because the municipalities had this privilege before, they were arguing to keep this privilege. I think that was the major thing. It's the issue of you having a privilege or

law on your side that allows you to do whatever you wish, even if it is a regressive law, even if it is causing more problems than solutions, you don't mind so much because you have the choice to use it or not to use it, but you don't want anybody to take it away from you. The point is that somebody took it away from you and you want it back now. I don't think it makes any sense, because with all the arguments that were brought forward that these basement apartments would cause this problem and that problem, we haven't seen any evidence of that happening since the Residents' Rights Act.

Mr Hampton: You make the case that these apartments will exist anyway, with or without municipal bylaw approval. They will exist because people need housing and other people have room to spare and need an income.

Mr Ballosingh: Yes, I think so. It will definitely, because historically it has. We have an opportunity to correct that and prevent that from going back into a situation where we had no control over it.

Mr Hampton: And where unsafe conditions could prevail.

Mr Ballosingh: That's right.

Mr Hampton: The Conservative Party stakes a lot of its so-called revolution, if you do any reading at all, on essentially what Ronald Reagan did in the United States. The 30% tax cut is vintage Ronald Reagan. That's what he promised in his first economic statement: all the cutbacks to public services and to public employees. One of the things that happened with Ronald Reagan is that the number of poorer people increased dramatically, in other words, people living at or below the poverty line. What's going to happen to those folks in terms of finding housing in the kind of world Mr Harris is trying to create here in Ontario? Where are they going to find housing, in your view?

Mr Ballosingh: With respect to the basements and the second units, if you were to take that away and make it illegal, you would have the issue of people still using it with unsafe conditions. Also, if you were to close down those kinds of opportunities, you would have an increase in people needing the housing unable to access it and living on the streets. You would have people trying to cram more into one family unit, the very thing you're complaining about. You're going to have more of that: people trying to cram more into one unit because there are no available units out there. You're also going to have greater strains on family situations to try and accommodate people living where they can't find housing. You could build up a lot of additional social problems that you don't necessarily have to entertain if you simply do the right thing now.

Mr Hampton: So the demand for this kind of housing is likely to increase, not decrease.

Mr Ballosingh: Very much so.

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Mr Galt: Thanks for your interesting presentation, and thanks for looking out for those who need apartment-type housing.

Your preamble is interesting, and I'd like to respond for a few minutes to that and your reference to the Residents' Rights Act. The phone calls I'm getting are more from landlords, and they're very sad stories.

They're coming into my office with tears in their eyes because they haven't received rent in six months or four months or whatever and the tenant is stripping the inside of the apartment or the inside of the house and there's nothing they can do about it. I may hear from them a few months later that when they did finally get them out, the house or apartment was totally gutted and they left a pile of garbage inside. These are the kinds of stories I'm hearing in my riding office regularly, and they're claiming it's because of this Residents' Rights Act. They're very angry.

Just to respond to some of the comments you're making, it isn't all one-sided, and I'm beginning to wonder which way we have that playing field balanced between landlords and tenants. It's a tough one; I don't think we'll ever get it really sorted out. I just want you to know I'm hearing a different side, a very sad side, coming across on a very regular basis. It may be different in Toronto. I'm from rural Ontario.

The intent here is to register to try and ensure that safety standards, fire and so on, assessment and all the rest, are met. What's so terrible about that?

Mr Ballosingh: I didn't say that anything was terrible about it.

Mr Galt: That is how I interpreted your presentation of what we're trying to do.

Mr Ballosingh: No—

Mr Galt: So you agree with it?

Mr Ballosingh: I have said in my submission that these should be the criteria, allowing people to register for fire and safety and things like that.

Mr Galt: I may have misunderstood you, then. So you agree with registration to ensure the safety is there.

Mr Ballosingh: Yes. I am saying that repealing the Residents' Rights Act is what I don't understand. Why would the government want to do that? Why are they attacking that?

Mr Galt: Okay. Let me move to the next one, relating to municipalities making this decision rather than it being laid on the provincial level.

Mr Ballosingh: That's right, that's what I'm interested in.

Mr Galt: The municipalities are where this is happening; they're closer to the action. The message I'm getting in my area is: "It's another one of those so-called Toronto-based solutions being forced down our throats. We want to make our own decision in rural Ontario." How do you respond to that, and also the concern of the neighbours in this general area, with the overcrowding, when they bought a home thinking they were in an area of single dwellings?

Mr Ballosingh: Everybody has a right to live where they choose to live and the landlord has a right to rent the house if it's big. Some of the things you're raising—you're saying, for example, that landlords are complaining about tenants damaging their buildings and they can't get them out. That happens in every case I can think of, where you'd have a tenant like that, even in a high-rise building. I don't think it is subject to basement apartments, particularly. I am saying that if you give them the right legislation and the protection of the Landlord and Tenant Act, they can act upon it the same as any apart-

ment person can do with a tenant who's behaving that way. I don't see that you can separate one from the other, from that point of view.

Mr Galt: To come back to the question of municipal decisions on that kind of housing, you tend not to agree with that.

Mr Ballosingh: No. I don't think they have a right to say where people can and cannot live if both parties agree to accommodate each other to create affordable housing. What does it have to do with the municipality? I don't understand.

Mr Galt: But you agree it should be a provincial decision.

Mr Ballosingh: I agree that the province should not allow municipalities to disallow the apartments but should give them the right to regulate them, inspect them for fire and safety standards.

The Chair: Thank you very much for your presentation today. I appreciate your comments and your taking time to appear before us.

ONTARIO ASSOCIATION OF COMMITTEES OF ADJUSTMENT AND CONSENT AUTHORITIES

The Chair: Our second-last presentation this afternoon is the Ontario Association of Committees of Adjustment and Consent Authorities. Good afternoon.

Mr David Brown: Good afternoon. My name is David Brown, and I'm the vice-president of the Ontario Association of Committees of Adjustment and Consent Authorities. That's a provincial association made up of members of committees of adjustment, members of land division committees, members of consent authorities and the staff who work for those various committees.

Our association has concern about what's being proposed. I've submitted a copy of a letter our association has forwarded to the Minister of Municipal Affairs and Housing, and I'm going to start midway through the first paragraph and read that as my submission this afternoon.

The Ontario Association of Committees of Adjustment and Consent Authorities has grave concerns with the changes being proposed in section 26 of Bill 20.

The bill proposes to change section 45 of the Planning Act by exchanging the term "committee of adjustment" with "council" and "the secretary-treasurer" with "the clerk." The bill introduces a new subsection that states any decision of council is final. The removal of the right of appeal in the minor variance process is a serious proposition. People care greatly about their homes, their businesses and their rights to make changes to their properties. They also rely on the opportunity to oppose changes that they perceive will negatively impact on their property or business. People rely on the fair, impartial and full hearing that is available to them, if necessary, at the Ontario Municipal Board. They may not always agree with the decision, but the objectivity, impartiality and fairness of the appeal process is a fundamental right that is critically important to the parties involved and essential to the functioning of the system.

The authority for council to appoint a committee of adjustment remains. However, if that committee includes

a member of council, the committee's decision will be final. In this instance, the concerns noted above are applicable. If the council appoints a committee that does not include a member of the council, then Bill 20 introduces section 45.1 to deal with the appeal process for a decision of the committee of adjustment. Appeals are directed to council and the council must determine the manner in which the appeal will be considered. Council may deal with the appeal or refer the appeal to the OMB.

If a council refers an appeal to the OMB, the municipality—council—is responsible for the costs incurred by the OMB in the consideration of the appeal. It is very unlikely that any council will pay the OMB to make a decision which they have the authority to make. Therefore, council will exercise their authority to consider an appeal. The proposition that elected municipal councils should hear appeals from their own appointed committee of adjustment on a minor variance to a zoning bylaw, that was passed by council, is unusual and unsatisfactory. Considerable expenses and expenditures of time will be incurred, as council members will be acting in a judicial role as opposed to the normal legislative role. This is not appropriate and raises legal concerns with respect to the hearing of an appeal. In order to conduct a hearing, as that term is used in law, all members of council would have to be present for the entire hearing, each of which, on average, would take a half-day to a full day. This increase in workload for council will further bog down the current approval process. This raises a question as to whether the proposals will streamline the current approval process.

Appeals to council will create a significant conflict in council's position and responsibilities. Council could not direct staff to appeal a decision of the committee of adjustment that council does not favour when it was then directing that appeal to itself. I believe there is some significant question in law as it currently stands if council could in fact provide a blanket delegation to staff without some proviso whereby, on individual appeals, there would be some council endorsement of the correctness of staff's decision. Otherwise, the appellant would not be the municipality but would in fact be staff itself. It is clear that council could not be both the appellant and the adjudicator in an appeal. There would be clear apprehension of bias for any respondent to such an appeal.

A real impact that could arise from the elimination of the ability to appeal to the OMB is an increase in the number of rezoning applications being considered by municipal councils where the process provides for an appeal. Unsuccessful applicants before the committee of adjustment will apply for a rezoning and appeal the request to the OMB. This will not reduce approval times nor will it result in the decisions being made at the municipal level. It will result in the creation of additional red tape as the approval time will likely be increased. The workload of the OMB will remain relatively unchanged. It should also be noted that information provided by the OMB indicates that minor variance appeals represent only 14% of the board's workload and less than 6% of the board's hearing time.

There have been improvements made to reduce the OMB appeal time frames and these should continue to be

supported. It is the opinion of the association that these percentages are not large enough to justify changing a process that currently works very well.

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For these reasons, the Ontario Association of Committees of Adjustment and Consent Authorities is opposed to the changes being proposed by section 26 of Bill 20. The government's commitment to streamline and speed up the planning process is welcome; however, it should not be at the expense of the integrity of the process.

Thank you and I'd be willing to answer any questions.

Mr Hampton: I guess I'm left to ask you this: If the legislation stays as is, what kinds of situations do you anticipate will happen both in terms of process and also in terms of the legal ramifications?

Mr Brown: With respect to the current process, in light of the changes that the OMB is making in terms of reducing its time frames, I believe the current process as it's constituted in the Planning Act will not have any impact on that and I think we'll continue to see the time frames at the OMB reduced to the point where they will be acceptable, whatever time frame that may be—three, four months to have an appeal considered. Currently, I understand it's approximately eight months and that's if you're fortunate.

Mr Hampton: To your knowledge, how much have the OMB time frames come down already over the last four or five years?

Mr Brown: At one point, it was approximately 12 to 14 months for an appeal of a minor variance to be heard by the OMB. Currently, again depending on the nature of the appeal, they are being heard in approximately 10- to 12-month time frames for a full hearing. However, the OMB has initiated a number of steps and processes to help reduce this time frame.

There's a short hearing process and settlement hearing processes where they will invite the parties to sit down, discuss the issues, flesh the issues out in essence, and sometimes they'll be able to deal with the issues right there and then. Those types of applications can be on for a hearing in three to four months. Because of the time frames and the scheduling of the board, they can achieve that.

The board has separated the nature of the appeals and this has enabled a larger majority of the appeals to get dealt with in a much more expeditious manner.

Mr Hampton: What do you think, in comparison to that, the net impact of what is being proposed here in Bill 20 will be, and what kind of situation do you think this is going to place people like yourself in in terms of orderly process, in terms of outcomes people can live with and in terms of fairness?

Mr Brown: I believe it's going to have a very real impact on the integrity of the process. Currently, it's a process that's set up where the elected individuals who sit on council appoint a committee of adjustment and that committee has rules set out in the Planning Act that it operates within. If you feel or an individual feels that they have not been dealt with fairly, they have the right to appeal and they can take it to, in essence, a higher court.

The proposed changes, as I understand them being proposed in Bill 20, I would anticipate are going to

confuse the process considerably as there are going to be a number of different possible avenues through which a minor variance could be dealt with. As well, you have the elected council members appointing a committee and then, in essence, reviewing every or any decision it would make. In that instance, I think you'd be just as well ahead to have the council make the decision in the first place and to eliminate any possible hope, if you will, in the event that the committee deals with it in one manner and the council doesn't wish it to be dealt with in that manner.

I question the ability of council to deal with these types of appeals in the same manner that committees across the province have, over the last 20 years, been able to develop in terms of process, having the public hearing, individuals getting their day in court and having a fair decision issued by your neighbours, in essence, the members of the committee of adjustment.

That's where I see that with what's being proposed, you're going to have a wide range in terms of the makeup of committees and that's going to have a real impact on the current process that has taken a long time to create, but I think it currently works very well.

Mr Hampton: Do you think that people who would come before such a committee or such a council would be concerned about the confusion of fair decision-making with respect to a specific matter, the confusion of that with frankly political overtones?

Mr Brown: Very much so. My current employment is as the secretary-treasurer of the committee of adjustment in the city of Mississauga, and on a regular basis applicants will ask: "Who are the committee members and what political ramification do I have to be aware of? Do I go and see my councillor or do I not go and see my councillor?" On a regular basis I have to indicate who the committee are, how they're made up, what their is relationship to council.

Currently in Mississauga there are no members of council sitting on the committee of adjustment. They are all citizen appointments. With respect to the councillors' involvement in the process, it's been the process developed in Mississauga that the council gets the opportunity to participate as any other concerned or interested party would. It's a process that seems to work very well in Mississauga.

Mr Hardeman: First of all, I'd like to say it seems somewhat consistent. The majority of people coming before us today have expressed some concern about the right to appeal minor variances. I'd just point out one flaw in the present system, that we seem to have some trouble defining what a minor variance is. If everything that was before the committee of adjustment was truly a minor variance, I would find it hard to believe why there would be such a concern that they should not only be decided, but be appealable, if it was truly minor.

You mentioned the numbers of how much of the OMB's time was spent on minor variance appeals. I wonder if you have any idea how many of those appeals were lodged by the applicant as opposed to someone who was opposed to the minor variance being granted.

Mr Brown: I'm sorry, I don't have that information, but I would suggest that is available at the Ontario

Municipal Board. They have provided me with information and that's where I got my numbers from.

Just further to that point, the number of appeals that are currently before the Ontario Municipal Board with respect to minor variances, I heard some comments earlier in the afternoon that Toronto seems to have a different manner in dealing with some issues.

I suggest to you that the municipalities outside of Toronto, and whether they be large or small, would have a very similar format in terms of dealing with the committee of adjustment. Similarly, the number of appeals of those decisions are not that great. In Toronto, there seems to be a much higher percentage of appeals that are being directed to the Ontario Municipal Board. In one of the discussions I've had with some of the people I've been discussing this with, it was suggested that perhaps it might be appropriate to look at the manner Toronto deals with it and provide some special or unique legislation for it when considering minor variance appeals. Outside of that, the rest of the province seems to be operating quite well.

Mr Hardeman: The other comment was regarding the problem with the appeal being to council when council was also the appointing body that appointed the committee of adjustment. I ask this one in all sincerity. I come from an area of the province where all the committees of adjustment are the elected councils; there are no appointed committees of adjustment. I was just wondering if you do not see the same problem presently existing where we have the need for the appointing body also appealing a decision of the appointed people. Would that not over a period of time, if there were too many cases where a council had to appeal a committee of adjustment's decision—at the next opportunity they would appoint a different committee of adjustment and in fact it would be somewhat—

Mr Brown: I suggest council has that ability at any time. After an election, council appoints its various committees. The committee is passed by bylaw, and if there was some concern with the makeup or the behaviour of that committee, council has the ability to repeal the bylaw and appoint a new committee with a new bylaw. I suggest that control or ability is there currently. Also, the council, if it is not satisfied with the decision, has the right to appeal that decision to the OMB as would any other interested party. Those are my comments in that respect.

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Mrs Fisher: I respect your opinion with regard to the appeal process on minor variances. I'm not clear yet who you might think should bear the cost if the appeal goes to the OMB. I get the impression you certainly don't want it held at a local level board, but if it's to go forward, you have maybe half the solution to half the problem you raised, but I'm wondering about the costs.

Mr Brown: The costs of processing an appeal, in my opinion, would be phenomenal. With the professional representation that is required, the time that is involved of the OMB's part, I think the cost of processing an appeal in the manner that the authority is given to the OMB to charge a fee would be easily in the area of \$3,000 to \$4,000 to \$5,000 per appeal. I have no infor-

mation to substantiate that other than my personal experience. When you deal with planners, lawyers and the like, the costs run quite high.

There's also a provision that the board can recover any additional costs that were not anticipated and if a hearing goes into two to three weeks, which often they do, even over a minor variance, it could be tens of thousands of dollars, in which case the municipality is responsible for that and it may be a question of whether or not the appeal is really warranted or worth that, but if the municipality doesn't have that ability to say that this is a frivolous appeal or a vexatious appeal, then they're going to be on the hook for paying the \$4,000 to \$5,000 for any person who has an interest in appealing.

My concern would be that if there's no responsibility on the appellant, and it may be a minor amount just to show their intentions are serious, that's where I have some concern with that.

Mr Gerretsen: I enjoyed your presentation. Although I didn't hear the whole thing, I've had a chance to read your brief. How long have you been in your present position with the committee?

Mr Brown: Seven years.

Mr Gerretsen: How many minor variance matters would come before the committee, let's say on an annual basis?

Mr Brown: Between 700 and 750.

Mr Gerretsen: From your experience then of having dealt with maybe almost 5,000 of these applications over the last seven years, how often has the Mississauga council appealed one of the committee's decisions to the OMB?

Mr Brown: I would say probably once or twice in a year.

Mr Gerretsen: Right.

Mr Brown: The next half of that, sir, would be whether or not that actually goes to a full hearing.

Mr Gerretsen: Right.

Mr Brown: Oftentimes it's a tactic, if you will, that the municipality can indicate, "These are our concerns and if you address those, we'll withdraw our appeal." I've seen that happen more often than not. I think in my seven years there's been one gone to a full hearing.

Mr Gerretsen: But in any event, councils don't normally appeal their own committee of adjustment decisions. It would be very rare, wouldn't it?

Mr Brown: Yes, I think that would be.

Mr Gerretsen: Now would you agree with me that a 10-month to 12-month waiting period to have a minor variance appeal heard by the OMB is still way too long?

Mr Brown: I think it is a long time. I think you have to put it into perspective with other time frames by the same token. The board is working towards reducing those time frames. Our association, because we are interested in the appeal process, does work closely with the OMB to discuss ways of improving the process and I think they are making steps in reducing that, but a 10-month wait is an awful long time.

Mr Gerretsen: I must admit there seems to be some confusion as to how quickly the board reacts to it, because I believe the minister, in his statement in the House when this legislation was introduced, was talking

in terms of the OMB dealing with matters within a matter of three, four or five months after a matter was referred to the OMB, and he wasn't just dealing with minor variances. So I find 10 or 12 months somewhat at variance with that.

I suggested this morning that maybe one way around this is to set up a small panel of the OMB of, let's say, six or seven members, on a rotating basis, that could deal with these minor variances in a very expedient manner. Is there any reason you can think of in a minor variance situation why, from a practical viewpoint, the individuals involved could not be ready to deal with their appeal within a two-month time period after the committee has made its decision?

Mr Brown: In most appeals I think that would be fair. Cost is going to be a big issue. The other half of that, however, is that while some individuals may consider an application minor, typically the applicants, the appellants would not see it that way, and it does take a considerable amount of time to prepare a professional response to refute or to oppose a decision of the committee. That's where I've seen applicants require at least three to four months to get their case prepared and get it together and get something that is in a form that is presentable to the OMB.

I would suggest to you that a three- to four-month time frame is not an unreasonable time frame. I'm sure that everyone would like to see two months, but I think, in an attempt to be reasonable, three to four months would be acceptable. I see the board on their way to achieving that.

Mr Gerretsen: The other question: In your experience, have you ever seen the OMB actually reject an appeal on the basis that it was frivolous? Have they actually ever, in your experience, invoked that section?

Mr Brown: No, they have not. They have had motions put forward that were quite strong and quite clear. Typically, the appellants withdraw their appeal before it goes to motion. I have yet to see a decision of the board where they've dismissed an appeal on the grounds of being frivolous.

Mr Gerretsen: What about this intermediary step, mediation etc, that was introduced a number of years ago? Has that actually speeded up the process, as far as coming to some sort of final resolution of the issue is concerned? Or is it just another almost semibureaucratic mechanism that has been added into the process?

Mr Brown: I don't that it's shortened the time frame, but it has shortened the hearing time. I understand that a lot of the difficulty at the OMB is in scheduling hearing time. They have to go so far in advance to make sure they've got the right complement of members and sufficient time available. So what it does do is to clarify for them the amount of time required for a hearing, but it doesn't, in my experience, expedite the process in terms of time frame.

The Chair: Thank you, Mr Brown, for your presentation before us here today.

SAVE THE ROUGE VALLEY SYSTEM

The Chair: This brings us to our final presentation today, Save the Rouge Valley System, Mr Stephen Marshall. Good afternoon, Steve. We have, as you

probably heard me say before, 25 minutes for you to divide as you see fit between the presentation and questions and answers.

Mr Stephen Marshall: Certainly. I'm very pleased that the Chair of the committee is a strong supporter of Save the Rouge and has been for a long time. It makes me feel quite at home.

The comments I'm forwarding are not accompanied a written form for distribution. We're anticipating that there may be questions and we wanted to be able to carefully revise our recommendations. We'll be forwarding those in written form for your consideration by the deadline.

The SRVS, for those not familiar with it, is a community-oriented, non-profit, incorporated, volunteer-based watershed conservation group formed 20 years ago by people who were witness to the degradation of the Don and wished to prevent a similar occurrence happening in the Rouge. The mandate of our group includes protecting and enhancing the environment of the Rouge, encouraging the preparation of a master development plan for the watershed, seeking support from community groups, officials and planning bodies having an influence, and increasing public awareness and respect for the natural resources of the Rouge.

We have had, as a group, extensive experience with the land use planning exercises in three regions and six local municipalities through three versions of the Planning Act. For a lot of years our members and other interested individuals fought and lost battles for the protection of the cultural and natural heritage of the watershed. We lost the Centennial swamp in Scarborough; recently we lost part of a provincially significant wetland in the Townline swamp complex in Pickering.

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In Markham, Richmond Hill, Scarborough and other municipalities over the years we are witness to wetlands being bulldozed, forests and woodlots cut down, streams buried or encased in concrete, very extensive destruction, all the more serious, in our minds, because of the effects of urbanization, of development, following nearly 200 years of logging, industrial activity and clearance for farms in the watershed. The cumulative effects of these activities has been described by other people, but it's clear there's a tremendous decline in the ecological health of the watershed in southern Ontario. As an instance, the Atlantic salmon, which once sustained an important commercial fishery, became extinct in the Great Lakes, the last known salmon caught off the mouth of the Rouge in 1898. The township of Markham, for instance, once a rich and diverse environment, was by the turn of the century a moonscape, and even now is only 3% mature forest covering.

Throughout southern Ontario the picture is similar: fragments remaining, and what remains is under stress. No one is suggesting that southern Ontario shouldn't have been settled, nor much of the land cleared for farming. We are here today because of that history. My own family is part of its heritage, my grandfather having had the honour of being Minister of Agriculture for this province, as well as a distinguished cattle breeder. From his papers and books, I have garnered a concern for

healthy growth rather than unbridled development, understanding it's not a question of either/or: either economic development or ecological community and health.

This understanding that growth needn't involve destruction, and a concern for this destruction, is one of the main themes underlying public pressure for changes in the 1983 Planning Act. The developers were concerned about inefficient and costly bureaucracy, the public about municipal corruption and the deterioration of air, water and land. The previous two governments were asked, or commanded, in a sense, by the strength of public opinion, to address these concerns. The process to revise the 1983 Planning Act and the attendant policies involved a long, thorough, careful, broad-based, province-wide consultation with all interests in the planning process. I must say with respect that those characteristics are not applicable to the current process.

When the new, call it 1995, planning system was put in place, we knew that there were a lot of development applications in the pipe, applied for or approved under the old rules, that would still cause destruction and degradation of the natural heritage system of the Rouge for a few years in various locales. We're still dealing with those. As a watershed on the south slope of the Oak Ridges moraine, the Rouge is vulnerable to the ballooning urbanization of the Toronto megalopolis.

None the less, we understood under the new rules that the Rouge did have a future. We could anticipate protection of the natural wealth that exists and the opportunities for restoration of much of the ecosystem. We are currently planning, for instance, restoration projects throughout the watershed that are designed to bring back the extinct species, Lake Ontario Atlantic salmon. We feel it would be a fitting remembrance for the 100th anniversary of the extinction of this species in Lake Ontario to launch a major effort to reintroduce the fish.

We knew that under the new rules, the destruction of the Rouge would gradually cease and we could turn it around. We're more than halfway through the turnaround decade, after all. We knew that Toronto would not, like Phoenix or Los Angeles, sprawl outwards, destroying virtually everything in its path: farm land, community identity and heritage, natural areas and systems. We could look forward to sustainable growth, development without long-term costs to the taxpayer and the community.

Unfortunately, now that confidence is gone. What Bill 20 and, even more, the policy statement will do, we feel, is to remove any certainty or consistency of planning in the watershed. Official plans will be of varying quality and detail, often amended, supplying little direction or consistency. Applications, even the most outrageously destructive and nonsensical, such as subdivisions and woodlots and valley corridors in the countryside, miles from any urban area, golf courses in wetlands, or all of those put together—which seems to be the latest enthusiasm—will likely come forward, be heard cursorily and hastily by councils, without opportunity for significant provincial input, with very constrained public input, and then go to the board. At the board, who knows? With the comprehensive policy statements changed into the current abbreviated version, with official plans disregarding

policy anyway, any outcome is possible. Under the proposed system we feel the likelihood of efficient growth, farm land preservation or environmental protection prevailing is very slight.

We see, under the new rules, accelerated urban sprawl and splatter, ex-urban developments, construction in significant natural areas, little or no attention paid to surface water, less to groundwater—in a sense, a shotgun blast at the Rouge, no one pellet fatal, but the cumulative effect very disturbing. Under the old rules, the Rouge was suffering the death of a thousand cuts; what we fear is that the proposed new rules will accelerate this.

Our perspective is both local—Toronto-based, if you like, GTA—and provincial, having worked on these concerns for many years, and with other groups on the provincial issues. Based on this experience, I wish to convey to you that our view of the proposed amendments to the Planning Act and the policy statements amount to setting the stage for significant degradation in our watershed and, we anticipate, across southern Ontario.

Recommendations to ameliorate these negative changes are difficult to put forward, given the scope of the proposed change. Mere wordsmithing can't really address the drastic alterations proposed. One step that was suggested to us is if you leave the policies completely alone, and look to flexibility through rewording of the role of policies, subsection 3(5). A planner we sometimes hire for dealing with issues suggested 3(5) could be reworded to say something to the effect that the public bodies, in the exercise of any authority that affects a planning matter, would "adhere to the principles contained in the policy statements...and to the principles contained in...official plans." This is an example of a different approach which retains the consistency and integrity of the policy statements, as devised over four years, but leaves the sought-for flexibility.

Another general concern we have is with official plans, having dealt with nine—eight; nine only recently—and their ability under the proposal to be amended frequently, quickly and with no requirement for consistency with, or even acknowledging in some cases, provincial policy statements. For instance, the deletion of subsection 26(4) prevents the province from, however you phrase it, requiring consistency with the policy statements. Without the amendment of subsection 23(1), the minister doesn't have the ability to even request, if an official plan is right off the wall, that it conform at least to some degree to provincial policies.

As I mentioned earlier, significant specific recommendations for changes are difficult to draw. What I've tried to convey to you is our concern about the scope of what is proposed, about what we anticipate to be the effect, based on 20 years of experience in a watershed which is urban and near-urban, next to Toronto. Thank you.

Mr Ouellette: Thank you for your presentation. I'm just going to ask a couple of questions to find out a little more detail about your organization.

First of all I'd like to know, do you have a specific policy regarding muskrats, and are you familiar with the damage that muskrats perform on river banks? Secondly, you mentioned the Atlantic salmon. Exactly what your organization doing in order to assist the reintroduction of

the Atlantic salmon? Thirdly, on the tree-cutting policy of Durham region, how does that affect, or what's your position on, that particular policy?

Mr Marshall: I'll start with the last. I am not the person who is responsible for dealing with Pickering and Durham, so I can't address that in any detail, but I will go back and inquire.

The second question, about Atlantic salmon: We have a proposal to the federal government for funding for the restoration of the Little Rouge watershed on a continuing basis over a great number of years. We're also working on that on our own. We have a number of partnerships with the MTRCA, the MNR and the local municipalities for restoration projects. We're working with the Atlantic salmon group, which is a collection of experts from Canada, Ontario and other interested fishing groups, on determining the requirements; most of this has already been determined through studies in the Rouge watershed, so we're at the stage of implementing the requirements. It appears to be, based on the technical information to date, that there's not very much to prevent the Little Rouge watershed, which is extensively rural, from being rehabilitated to allow Atlantic salmon to exist.

Should it become urbanized, that question changes completely. Part of our concern is that with the proposed changes, prevention of ex-urban growth or rural splatter or sprawl is substantially diminished, and that even with the best intents of municipalities it could occur, could be approved through the OMB, and it would not be a rural watershed; it would become fully urbanized and, as fishery experts around the world know, beyond a certain limit, whatever you do, however carefully you do it, you've lost the river.

The first question was muskrat. We usually work in conjunction with interested parties—for instance, land owners who have suffered damage from beaver and muskrat—and the MNR in dealing with these technical questions. We don't presume to know the answers all by ourselves.

1700

Mr Galt: Thank you very much. A most interesting presentation, and obviously you're very concerned about the environment and its protection. Let me assure you that this government is as well, as we're setting very tough standards to protect that environment.

I don't think you said so in so many words, but I expect you were making reference to "being consistent with" versus "having due regard for" as one of the areas of concern. This morning I used the word "expropriation," and maybe I shouldn't have used that particular word, but farmers, land owners, have lost, as a result of the previous bill, some of their rights to be able to use their lands. They were not warned; it was just laid upon them with no indication whatsoever.

We're looking at, as we go out with these hearings, the old wording of "being consistent with" is being interpreted as super rigid, and I gather from your presentation the words "having due regard for" are not. I see "having due regard for" being just about as rigid, except it leaves a little flexibility in there. I personally think local municipalities should have some flexibility but have the certainty of this very specific guidance. Do you see some other

wording that would leave a little opening for municipalities to have some flexibility, yet certainty being left in the system?

Mr Marshall: Yes. What I had alluded to without being specific was an alternative wording that was suggested in section 3.5, referring to the minister and public bodies in exercising planning authority. Instead of "being consistent with" or "having regard for," it had been suggested by one expert we talked to that the wording would be something to the effect of "adhere to the principles contained in the policy statements and to the principles contained in approved official plans." The distinction this individual made was that if there is no commitment to the official plans, there's no consistency in planning in the municipality and it would be completely ad hoc. This diminution of certainty or common understanding is liable to result in an adversarial process throughout—extensively, everywhere. I dread to think how the OMB can possibly handle it under the proposed changes.

Mr Galt: One of the problems we have is that we really don't know what our laws say until they've gone through the test of the courts and then we start to find out. Interestingly, your wording, "adhere to the principles of," is a different approach from either of the other two. I'm sorry I missed it in your presentation, but I've jotted it down.

Mr Gerretsen: Your presentation is very interesting, because you obviously don't represent developers or municipalities, all of whom are getting something out of this legislation specifically.

I'd like to follow up on that last point. The same point was made earlier today by John Sewell, who basically said if you go with the wording "having regard to," you're making it so broad and wide that even in the situation where both the municipality and a developer want to have a certain development go ahead, you're allowing the opponents of that development to build up arguments on almost anything at all that would have to be adhered to by the OMB, because there aren't any principles or guidelines the municipality has to follow in coming up with the planning decision.

You, in a different way, from a different aspect perhaps, have come up with exactly the same conclusion. What concerns me about that is, first of all, process. You've talked about process, how you were involved in changes to the other act and how long it took etc. What comments or suggestions do you have with respect to the process that was followed in the changes to this act?

Mr Marshall: I can't be complimentary. The process that led, for instance, to the policy statements was very extensive, did involve everybody. There was a number of revisions. It was put out; it was clear who the author was. And there was opportunity for comment and consideration. There may be a couple of lumps and warts on it, but it hung together pretty well as a set of policy statements.

In the version we have now, there are glaring inconsistencies that flatly contradict each other. There are definitions that don't have words in the text. It looks like it was knocked together fairly hastily. Most of the environmental protection has been stripped out, farm land

protection, incentives to control urban sprawl. Each of these has an effect on an urban fringe area. The Rouge is one of the watersheds that's under the gun, so to speak—different from eastern or central Ontario; the issues there are different. But the pressures in watersheds like the Rouge are extremely intense.

Mr Gerretsen: Would you agree with me that to effect changes to a municipality's official plan, you should go through a more extensive process than to change a particular zoning bylaw? I believe what's suggested in the bill is that basically the same process and same time lines are being adhered to. Does that make sense to you?

Mr Marshall: Our concern about the time lines for changing official plans or for addressing private official plan amendments—private official plan amendments can be small or enormous in their effect. The time line is very short. Metro, I know, in the planner's brief to council, said that council may not be able to deal with the official plan amendment because the time lines are too short. Council sits; there's no space. The public would have a difficult time addressing it. If it moves that fast, you may wind up having planners' recommendations at the OMB because it never even got to council.

If an official plan is easy to amend and it's quick to amend and it could be amended drastically and it doesn't have to adhere to the policies, where is the consistency? We're afraid that people are going to come in with loopy ideas. We've been to the OMB on either side, as an appellant and as a respondent, and, if you'll pardon the allusion to an American dice game, it's a crap shoot. You don't know what you're going to get under the old rules. You really didn't. You'd look at the member and you'd think, "I think I know where this is going," but there just doesn't seem to be any consistency. We had an OMB member who completely disregarded the wetlands policy statement. He said: "Oh, I 'had regard to.' Now we'll get on with it."

Mr Gerretsen: Do you have concerns that subdivisions can be approved without any public meeting at all?

Mr Marshall: I imagine that anybody neighbouring the subdivision would be very upset when they find out it's already approved, gone, finished, and they never even knew about it. We can't agree with that. Some of the details in subdivisions make the difference between development that is appropriate, efficient and protects the environment and one that just wipes everything out. These details are really important.

Mr Gerretsen: Exactly, and sometimes the general public will have a much better appreciation of where the parkland ought to be situated within a subdivision, for example, and how the streets ought to be laid out than the developer and even the municipality might have.

Mr Marshall: Whether they do or they don't, they certainly should be able to speak to it, because it affects them directly.

Ms Churley: Thank you very much, Mr Marshall, for coming to give your presentation. I want to make a comment. Mr Galt, with all due respect, said for the second time today that this government is strongly protecting the environment, in language like that, and I just want to put on the record that this government is dismantling over 20 years of environmental protection

that's been put in place, through this bill and numerous other bills, including Bill 26, right under our noses. It appears that even government members aren't aware of that or they wouldn't say such things.

I'd like to point out that in this area perhaps I should be listened to a little bit. I come from Newfoundland, and I was one of the people, even though I was in Toronto at the time on Toronto city council, who participated in a rally here in Toronto with Newfoundlanders to try to persuade governments that there was a fish problem, a resource-consumption problem: overfishing in Newfoundland. Nobody listened. The then Conservative government in Ottawa was saying, "We've got to balance the environment with economics, blah, blah, blah." Nobody listened until the fish disappeared. The fish have disappeared. It is an example of what happens when these issues which are brought forward by people like you and others are ignored. "Oh, we've got to balance." That's what happens.

It's very important that people like you are not seen as just another special-interest group trying to impede development. Of course you're not trying to do that. You're trying to make sure that—I get emotional about this. I have family members who can't make a living any more because they didn't listen to people like Mr Marshall. I just wanted to thank you for your presentation today and urge the government members to listen very closely to what people like Mr Marshall have to say.

Mr Marshall: I didn't emphasize, and I perhaps should, that we are not and never have been an anti- or no-growth-or-development group. What we promote is responsible, good development, and that's what we work with developers, municipalities and government agencies always to achieve.

The other point is that I would be absolutely delighted if there was a balance between growth and development and the environment. Actually, there is: It's 1% this way, and 99% this way. If we went 50-50, I think it would be absolutely fabulous. We have inherited 200 years of destruction, and we are in serious trouble. The water quality and the air quality are not getting any better, and our natural areas are disappearing. If it really were 50-50, we'd be putting a lot of effort into restoration, because protection isn't the issue; protection and restoration are what's required. If there were that balance, it would be wonderful. Unfortunately, the amendments proposed to the act and policy statements make it 0.5% and 99.5%. It

doesn't really go the right way towards the balance, in our opinion.

Mr Hampton: Stephen, I want to ask you one question based on the statements you've made here today. If I heard you, you're basically saying that going back from "be consistent with" to "have regard to" is the wrong move, and that it is especially so when the policy statements themselves are being watered down severely; with the removal of the requirement that official plans be comprehensive, in other words, can be anything the council wants them to be now; with the provision for 90 days to amend an official plan, in other words, to amend the official plan at will; and finally, with the minister relinquishing the approval power for plans passed by upper-tier municipalities. What do you think the net effect of all those things will be in terms of the Rouge River Valley and the surrounding lands? If all this is being taken out of planning, what do you think the net effect will be on the Rouge River Valley and the surrounding lands in terms of some of the battles you likely foresee in the next few years?

Mr Marshall: Our concern is that if the proposals are carried and stay in place, most of the battles would be lost before they began; that we would have development in and by PARC itself, and development in areas where it should not be: sensitive groundwater recharge, natural areas, river valleys. With the cumulative effect of the urban expansion and the ex-urban development, which is sometimes more serious, up in the moraine, golf course subdivisions, we're concerned that under these rules, and depending on the market—things may happen and there may be no development at all; it's quite beyond the Planning Act to determine what the market will be, and this is irrelevant to the market, in a sense—if the market picks up like it did in the late 1980s, we'll lose the whole shebang. That's what we're worried about. We'll wind up like the Don or like the Humber.

The Chair: Thank you both. With that, we've reached—exceeded, actually—our allotted time. Thank you again, Mr Marshall. I noticed that during your presentation Ms Lois James has joined you. Continued good luck to both of you in your endeavours. Thank you for coming down to make presentation before us today.

With that, that being the last item on our agenda this afternoon, the committee stands adjourned until 9 o'clock tomorrow morning back in this room.

The committee adjourned at 1715.

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Chair / Président: Gilchrist, Steve (Scarborough East / -Est PC)

Vice-Chair / Vice-Président: Fisher, Barb (Bruce PC)

Baird, John R. (Nepean PC); parliamentary assistant to the Minister of Labour

Carroll, Jack (Chatham-Kent PC)

Christopherson, David (Hamilton Centre ND)

Chudleigh, Ted (Halton North / -Nord PC)

*Churley, Marilyn (Riverdale ND)

Duncan, Dwight (Windsor-Walkerville L)

*Fisher, Barb (Bruce PC)

*Gilchrist, Steve (Scarborough East / -Est PC)

*Hoy, Pat (Essex-Kent L)

Lalonde, Jean-Marc (Prescott and Russell / Prescott et Russell L)

Maves, Bart (Niagara Falls PC)

Murdoch, Bill (Grey-Owen Sound PC)

*Ouellette, Jerry J. (Oshawa PC)

Tascona, Joseph (Simcoe Centre PC)

**In attendance / présents*

Substitutions present / Membres remplaçants présents:

Conway, Sean (Renfrew North / -Nord L) for Mr Lalonde

Froese, Tom (St Catharines-Brock PC) for Mr Baird

Galt, Doug (Northumberland PC) for Mr Tascona

Gerretsen, John (Kingston and The Islands / Kingston et Les Îles L) for Mr Duncan

Hampton, Howard (Rainy River ND) for Mr Christopherson

Hardeman, Ernie (Oxford PC) for Mr Carroll

Hastings, John (Etobicoke-Rexdale PC) for Mr Murdoch

Pettit, Trevor (Hamilton Mountain PC) for Mr Maves

Smith, Bruce (Middlesex PC) for Mr Chudleigh

Also taking part / Autres participants et participantes:

Colle, Mike (Oakwood L)

Clerk / Greffier: Arnott, Douglas

Staff / Personnel:

McLellan, Ray, research officer, Legislative Research Service

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ISSN 1180-4378

Legislative Assembly of Ontario

First Session, 36th Parliament

Assemblée législative de l'Ontario

Première session, 36^e législature

Official Report of Debates (Hansard)

Tuesday 13 February 1996

Journal des débats (Hansard)

Mardi 13 février 1996

**Standing committee on
resources development**

**Comité permanent du
développement des ressources**

**Land Use Planning
and Protection Act, 1995**

**Loi de 1995 sur la protection
et l'aménagement du territoire**



Chair: Steve Gilchrist
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
RESOURCES DEVELOPMENT

Tuesday 13 February 1996

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DU
DÉVELOPPEMENT DES RESSOURCES

Mardi 13 février 1996

*The committee met at 0908 in committee room 2.*LAND USE PLANNING
AND PROTECTION ACT, 1995LOI DE 1995 SUR LA PROTECTION
ET L'AMÉNAGEMENT DU TERRITOIRE

Consideration of Bill 20, An Act to promote economic growth and protect the environment by streamlining the land use planning and development system through amendments related to planning, development, municipal and heritage matters / *Projet de loi 20, Loi visant à promouvoir la croissance économique et à protéger l'environnement en rationalisant le système d'aménagement et de mise en valeur du territoire au moyen de modifications touchant des questions relatives à l'aménagement, la mise en valeur, les municipalités et le patrimoine.*

JEFFREY DAVIES

The Vice-Chair (Ms Barbara Fisher): Good morning. Sorry for the delay in starting. Sometimes that happens first thing in the morning. We welcome everybody to our hearings.

Just to outline a little bit the parameters around how we will operate this morning, we will allow 25 minutes for a presentation, to be used in whichever way, shape or form you choose. Welcome, Mr Davies.

Mr Jeffrey Davies: Good morning. I thought I would put some ideas before your committee. The ideas are solely my own. I have the privilege of working as a lawyer in the land use process and I thought that outlook would provide me with an opportunity to make some suggestions to your committee with regard to the way in which the bill could be improved, bearing in mind its original intent.

I have provided a letter to your clerk and I believe he's circulated it. Perhaps I could just give you an overview of these suggestions. I don't know if there would be any questions, but I'd be pleased to discuss it with you.

With regard to subdivisions and Bill 20, one of the things that is clear by analogy is that an appeal of an official plan amendment may be made directly to the Ontario Municipal Board. The bill takes away the step of seeking a referral through either the minister or a region. That may be the intent as well for subdivisions, but my reading of the bill makes that unclear and it would be extremely helpful if subdivisions could be appealed or referred to the municipal board without the intervening step of going through the minister or the region. This, in my view, is a needless step which simply promotes a lot of paperwork.

In looking at your bill, simple changes could be made to subsections 51(34) and 51(48) that would make it abundantly clear that a subdivision could be appealed directly to the Ontario Municipal Board. It presently takes three or four months at the very least to get a referral of a subdivision through the minister or through a region and this is just a total waste of time in my view. In that you're looking at speeding things up and making them more efficient, reducing the red tape, I'd strongly encourage you to make that simple amendment which would be greatly helpful to everyone.

That point regarding subdivisions is a procedural item. The second thing is a substantive item. That's my item (b). By way of analogy, if I may, under section 41 of the Planning Act, if one appeals a site plan to the Ontario Municipal Board, the Ontario Municipal Board has the jurisdiction under section 41 to actually settle the agreement so that when the hearing is over and you have a decision, you actually have a site plan agreement that is binding on the parties.

No such similar provision applies to subdivisions. Subdivision disputes are handled at the municipal board by referring conditions of draft plan approval and having the board revise the conditions. In highly detailed situations the board has detailed the conditions in a manner that would attempt to impose a subdivision agreement, but when the hearing is over the parties still have to go back and write a subdivision agreement. In my view, if the bill were amended, it would be a real improvement if the municipal board had parallel powers dealing with subdivision agreements as it does with site plan agreements, and I very strongly recommend that to you as a matter of getting things done and looking for finality.

On page 2 of my letter, I talk about dismissal without hearing and you have provisions in Bill 20 for dismissal without hearing. However, there are lots of situations where you have appeals, particularly of zoning bylaws which clearly comply with the official plan and which are not eligible for dismissal without a hearing or even some kind of summary procedure.

Most of these appeals are clearly in the form of nuisance appeals and it seems to me, with respect, that you ought to consider some form of summary dismissal where a bylaw can be shown to clearly comply with the official plan. Then a full-blown hearing dealing with the appeal ought not to be necessary. I don't view this as being a terribly difficult thing and, again, it would speed up the process and help to foster growth.

The third thing that I talk about in my submission is zoning. With regard to item (a), there are lots of situations where the most ridiculous disputes grind the system to a halt. I think you all know that. Often those

disputes are not at all fundamental. One of my favourite anecdotes is a case I did years ago in Scarborough where a proposal was stopped because of a dispute over the colour of the window frames in a high-rise building. There was simply nothing that could be done, short of going to court or going to the municipal board, to break that logjam.

In my view, you ought to consider some form of speedy dispute resolution for situations which are not of a fundamental nature, but which none the less are stopping the system. These happen on a daily basis and are entirely counterproductive.

The second point I make under zoning has to do with your paragraph 3.2 of subsection 34(1). This is a section I suspect you'll be hearing from on others and it was amended vis-à-vis Bill 163. In my view, the general amendment to section 34—I'm not sure if you've had anyone else discuss this with you—really doesn't clarify the situation. I wasn't sure what you were intending to do.

In that section, it provides for zoning to prohibit any use of land where you have certain categories of land; for example, hazards, contaminated lands, woodlands and things like that. The point that I wanted to make with woodlands is that woodlands are very distinguishable from the other classes of land in that section because we have treated woodlands as being lands that are developable if the trees were to be cut or if they were to be harvested or if they had not been grown as a plantation in the first place.

As a result, we have a system that is generally in place in southern Ontario where owners of woodlands, when those lands reach the development stage, the lands are purchased by the municipality at fair market value, as if they were developable for residential purposes. My concern with your section 34 with regard to woodlands is that it implies that the woodlands can be zoned for no further use and there may be no form of compensation available. This would be confiscatory zoning, in my respectful submission and I'm sure that's not what you intended.

I would suggest that in the first place, you delete woodlands from section 34 and secondly, that you reconsider section 34 and the subsections around it, because they do operate in a confiscatory fashion and I strongly doubt that's what you were trying to do.

With regard to complete applications, the concern I have is that they not be applied in a mindless fashion, where you have applications which, using simple common sense, don't require a litany of studies that a bylaw might stipulate. There should be some means of resolving any issue if the bylaw that the municipality passes is inappropriate because otherwise, what is happening in the land development business is that it's squeezing the small player out because the small player just can't afford to do all the studies that the big developers can afford to do. In my view, this complete application, while it makes sense, needs to have some leeway so that it can be applied in a commonsense fashion.

Over the page, I deal with policy statements and I'm not sure if your committee is dealing with policy statements. Is it?

The Vice-Chair: It's your time, if you'd like to bring that into the discussion, I think it could be helpful.

Mr Davies: Just a couple of brief points on policy statements: In section 1.1.2(b) there's a link of urban boundaries to infrastructure, and in my view that should be clarified so that it's clear that infrastructure will be provided when required and in the meantime, planning will go ahead. There's a lot of debate out there that planning, in the chicken-and-egg kind of nature, or catch-22 nature, should not go ahead until infrastructure is ahead, which I consider to be a rather shortsighted kind of argument.

Part of planning should be to plan for the provision of infrastructure. I think that if the policy statement in 1.1.2(b) is taken literally it could hamstring the planning process; 1.2(e), in my view, you're simply setting up a major situation. When the policy statement calls for preserving the vitality of existing commercial areas, what's happening is that those who seek to limit or regulate competition are being set up to appeal to the Ontario Municipal Board and you're going to get all kinds of "store wars" style hearings that were not intended. So I would urge you to take a look at that.

0920

The fifth point that I wanted to deal with has to do with development charges. I welcome the review that was announced, not because I'm opposed to development charges in any way, but because in my view the act, when it went through here in 1988, was a work of considerable compromise, and as a result it has a number of parts of the act which simply don't work. There are sections in the act which are poorly written and which don't relate well to one another. The act clearly, in my view, requires an overhaul. I understand that the government is moving in the direction of limiting development charges to hard services only, and of course that's the business of the government and the Legislature.

Part II of the Development Charges Act deals with front-ending. In my view, this is one of the most important parts of the act because it allows for the funding of infrastructure on a sort of with-confidence basis, in that the developer who has to put up the money can know that they can have an assurance that they'll be paid back. The front-ending portions of the act are in part II and they too are very poorly written. The result has been that part II of the act has not been well used. I would strongly encourage you to look at or direct your staff, or however you may be proceeding, to see to it that part II gets the overhaul it needs so that it can work.

The third point regarding development charges is that in 1989, when the act went through, one of the strong motivations was to provide for an open and accountable process, and I believe that's extremely important to maintain. The bill provides, I understand, that the minister will, at least on an interim basis, deal with the approval of development charges amendments. The concern I have is that this takes the process from the clearly open to a situation where the bylaw is reviewed on an administrative basis. I think it would be appropriate, if the act is going to be reviewed, to maintain the approval power with the Ontario Municipal Board but to give strong direction to the Ontario Municipal Board with

regard to the types of services that are going to be allowed under the development charge.

The other thing I would point out, which results from a decision of the municipal board and from the court, is a point of extreme frustration with the Development Charges Act, and that is that if you appeal a development charges bylaw and the appellant can show that one component of the charge has been exaggerated, the municipality now can respond by saying that another component of the charge was underforecast and that it therefore makes up for the overforecast. This is what I call a moving target in development charges appeals, and it constantly happens. So I would strongly suggest to you that the appeals be dealt with on a component-by-component basis. The act says that the municipal board may not increase the amount of the development charge. I would suggest to you that the act should say that the municipal board may not increase the components of the charge. That would force the municipalities to live with the components that they forecast. Otherwise the development charge process is going to be a chaotic situation.

So those are some submissions that I've made. I tried to go over them on an overview basis so as not to bore with detail. If I can be of any further assistance, it's my privilege.

Ms Marilyn Churley (Riverdale): Welcome. I believe you and I go back a ways.

Mr Davies: A little ways.

Ms Churley: Probably I was sitting in city council objecting to some proposal, one or another—

Mr Davies: City of Toronto. That's right.

Ms Churley: Yes. But we won't go into that. I'm sure I supported some of the things you were doing.

Mr Davies: I don't remember it quite that way, but I'll accept it for the time being.

Ms Churley: Your submission, of course, is a very technical one and I think that's important that some of the technical aspects are looked by people like you who have a lot of expertise in the industry.

I wanted to ask you a few further questions on the development charge. I understand, as you mentioned, that there are numerous problems with it as it exists. The concerns around what this government is doing, however—I think it opens up some difficulties around the ability for municipalities to be able to determine what kind of development charges are needed. The issue, and we have to face it, is that the Tory government is cutting back municipalities' transfer payments by huge amounts, up to 47%. The reality is that when new developments, especially in suburban areas, are created, there are soft costs as well as the so-called hard costs. Somebody's got to pay for those costs, and ultimately, if it's not the developer—and of course those charges, it's true, are then handed down to the buyer—it's going to be the general taxpayer.

I know this is an issue that's bedeviled a lot of governments for a long time and I think it's interesting to look at an overhaul, but I'd like to know what your opinion is. Who should be overall covering those costs of so-called soft services like schools and libraries and community centres? Do you think the overall taxpayer, or should the developer cover some of those costs?

Mr Davies: Part of the problem is that historically a lot of those things have been paid for out of tax dollars rather than development-charge dollars. So you've got large areas of the communities which are served by community centres, libraries, other things of that ilk that have been paid for out of the general revenues. To change the system in 1989 to fund those things out of development charges imposed a tremendous strain on new development. So the conundrum that you have is maintaining those things that have always been paid for out of general revenues in that fashion or transferring them entirely to development charges. I don't know where the answer is.

I think the problem is that the transfer that occurred when it did in 1989, when the new act came in, helped to very substantially inflate the development charges, and that has been counterproductive vis-à-vis growth. On the other hand, growth should pay for itself. So there probably isn't an answer that would satisfy you in that regard. A judgement has to be made, and at this time the priority is on keeping the charge down.

Ms Churley: Is my time up already?

The Vice-Chair: Yes, it is. Sorry about that. We were down to only three minutes a person, and we're already one past that. Sorry about that.

Mr Ernie Hardeman (Oxford): Mr Davies, thank you for coming and making your presentation this morning. I just quickly wanted to go to the first item in your presentation as to direct appeal for the subdivisions in subsection (34). The appeal is fairly direct and our change in Bill 20 is just to change the time frame from 180 days to 90 days. Do you see that as not sufficient direct appeal, because you have to appeal it to the municipality and forward it to the OMB, or do you think it's important that it goes directly to the OMB?

0930

Mr Davies: I guess my point is sort of a technical one, because under 51(34) and 51(48), the paperwork goes to the municipality when the appeal is made, whereas under your changes to section 22 dealing with official plans, the paperwork goes directly to the Ontario Municipal Board. If you want to get things moving, which is what I think you want to do, then I would suggest that under 51(34) and 51(48) the paperwork go directly to the Ontario Municipal Board. That will get the files opened, the file will get in queue for a hearing and things will start to roll. I don't have a problem with the 90-day period. That's a different matter. It's strictly a matter of where the paper goes.

Mr Doug Galt (Northumberland): Thank you, Mr Davies, for a very thoughtful presentation. I'm intrigued with what you've picked up on woodlands. Certainly in Bill 163 there was all kinds of confiscation going on with wetlands and lands around wetlands. It was very irritating to the farm community and land owners in particular.

You're identifying this with woodlands as another area where confiscation without compensation could occur. Do you want to expand a little more on that? I'm just a little surprised; you're the first to bring that one up that I'm aware of.

Mr Davies: Very clearly, if you look at the things in section 34, and I don't know if I have time to pull it out

or not, a number of the items are very much dealing with classes of land which don't have a chance of being developed. For example, if you have a wetland, no one attempts to develop on a wetland. There's lots of argument over whether a piece of land is a wetland or not, but once it's determined that it's a wetland, no one would attempt to develop on it.

With regard to a woodland, because woodlands regenerate in the way they do—they live and they die; they're planted or they might not be planted—the practice has been to clearly say that woodlands are developable. All you have to do is cut the trees down and you've got a land that can support development. That has been broadly accepted, in southern Ontario anyway. So when woodlands go into public ownership, there's an expectation they'll be paid for as if they were residential land.

My concern with the section is that it will create an interpretation that will eliminate the need for compensation and then you'll get all kinds of problems.

Mr John Gerretsen (Kingston and The Islands): Thank you very much, Mr Davies. I too enjoyed the presentation. I'm particularly concerned about speeding up the process. Having been involved in this from all three sides—the municipal side, the developer side and the objector or public side from time to time—over the last 25 years, I know that this is one area that no government, as far as I'm concerned, over the last 25 years has dealt with effectively.

I'm very much intrigued with, first of all, why the OMB doesn't use the "frivolous and vexatious" dismissal more often and why there aren't speedy dispute resolutions in situations where the average person on the outside, from an objective viewpoint, would say, "Yes, people have a right to have their say." This frustrates from all sides, not just from the public side but from all sides. Why does it take longer to get some of these matters heard or resolved than it would for somebody who's been charged with murder to have his trial over and done with?

Mr Davies: Let's pick up on that.

Mr Gerretsen: What reasons have ever been given to you as to why it takes so long for these things to get going; for example, this notion as to why the OMB shouldn't have the power to settle subdivisions? Has anybody in the ministry ever given you a reason why they can't do that?

Mr Davies: I don't know that anybody's got the definitive answer on the question, but the municipal board will say, and I'm sure from their point of view quite legitimately, that they're overwhelmed with files.

Mr Gerretsen: I realize that. I'm not talking about the time delay of getting a hearing on. You and I know that there have been situations with subdivision agreements, whatever, come before the OMB and there are always five or six or seven items that cannot be resolved right there and then, even though all the parties are finally sitting around the table and have had a full airing on the whole thing. Has anybody within the ministry ever given a reason to you why the OMB has not been given that power?

Mr Davies: I don't understand the historical reasons the OMB does not have that power, and that's why I'm suggesting to you at the bottom of page 1 of my sub-

mission that you give the OMB that power and let's get on with it. I don't understand the reason for the historical difference of why the OMB can settle a site plan agreement but can only deal with the conditions for a subdivision agreement. It doesn't make sense. If what you really want to do is bring about finality and get the system going, give the OMB that power.

The Vice-Chair: Thank you very much for coming this morning. It's been very helpful.

Mr Davies: I hope it wasn't too technical but was of some help to you.

CONFEDERATION OF RESIDENT AND RATEPAYER ASSOCIATIONS

The Vice-Chair: Our next party is Confederation of Resident and Ratepayer Associations. This is a reminder for our latecomers that we are in a 25-minute process, and however you choose to use your time is yours. We'll go into a question-and-answer period at the end if there's time. You could help us by introducing yourselves.

Mr William Roberts: Certainly. My name is William Roberts. I'm the honorary past chairman of the Confederation of Resident and Ratepayer Associations. My local ratepayer association is the Swansea Area Ratepayers Association. Mr Opara is a member of the executive of the Confederation of Resident and Ratepayer Associations and is a member of the Bedford Park Residents Association in North Toronto. Dale Ritch belongs to the Bloor-Junction Neighbourhood Coalition and the Dovercourt Park Area Residents Association, basically the west end of the city, working-class neighbourhoods. He's a vice-chairman of the Confederation of Resident and Ratepayer Associations.

I'm going to summarize the brief I've given you. We're going to narrowly focus on the issue of committee of adjustments appeals and what we believe is a fundamental destruction of community involvement. There are serious problems with the way the system works right now, but the solution of having a kangaroo court or a system where you have no ability to discuss matters or properly hear is essentially saying to people: "We'll make a political decision. We won't weigh the relative matters."

The problem with the OMB is that it's a hearing de novo. That's allowed the committee of adjustments to have very informal processes; in a sense, it's almost planning by ambush. What happens is that the applicant sets the process in place; they decide when to start the process and the clock begins to run. They can have up to a year to prepare what they're going to say at the committee. The residents will get about three weeks' notice. Most people work, and they can't always get to city hall immediately. In the case of the city of Toronto, it could be up to eight or 10 miles to travel if you're at the extreme ends. If you're not working downtown, it's not that easy to access the files between 9 and 5.

Probably about two weeks before the hearing, they begin to understand what the issues are. They appear at the committee of adjustment, and if there's no process for proper consideration at that level—and it's the only place you're going to have a full hearing—essentially, the citizens are already at a minus-sum situation.

If, as has been suggested, appeals may still lie to the OMB but the full costs will be passed on the municipality, the municipality may decide to pass the full costs on to the local residents, who at the beginning weren't given an opportunity to properly prepare their case, don't know whether what the applicant is saying is true.

If you were really trying to deal with the problem, which is in many cases a neighbour-neighbour dispute, you'd want to try to begin the mediation or dispute resolution process at the committee of adjustment level. It would make more sense if you had a process where the applicant begins the process, the committee has to set out a mediation or a pre-hearing date, and you would give the people surrounding the opportunity to file a letter indicating that they have concerns. If you had a meeting before everybody's drawn the lines in the sand and the emotional commitments are made on both sides, to try to see if there could be a resolution, where it's a neighbour-neighbour dispute, where somebody wants to build an 8,000-square-foot home in an area zoned for 3,000 square feet—and I've seen that happen—and the present home is 2,000 square feet, they might suddenly find the neighbours would be content with 3,500 but not 8,000 and maybe they should reconsider their plans.

0940

Others times you have more significant issues that won't go away that easily, but the reality is, if the neighbours are excluded from a process and they suddenly find themselves there, they're going to file an appeal. If the only person who's doing the appeal is the local council, our problem with that is most politicians are used to dealing with political processes. They like the idea that they can leave the committee room and come back again. If you're going to try to have a hearing at the council, will they follow the rules of judicial procedure, which means that council member sits there through the full process, can't leave, can't deal with anything else, and for the five or 10 days their committee is dealing with this matter in legal argument, they can't deal with their constituents? Somehow I don't think that's what's going to happen.

The result will be a very easy, quick process for whomever is dealing with it. On one side, if you have a pro-development council, that will be great for the developers, but if you have an anti-development council you can guarantee the result will be no, no and no again, or if 300 people show up and oppose it, the answer will be no.

You need to develop a process that will allow for community involvement at an earlier stage. If you have a full hearing at a committee of adjustment or whatever level it is, at least people have had their chance to do that, and you could probably turn the Ontario Municipal Board or some other entity into a true appellate body that just decides whether somebody made an error in their decision, rather than having to have a brand-new hearing.

If you leave it to city council, the problem will be that you'll have a full hearing, and then it goes to city council and they make a political decision. I don't want to tell you what that's going to do to the process, but the reality for most people is that if they don't deal with city hall except when a committee of adjustment matter occurs, some of them—they've never even been to court before.

This is the first time they've ever seen an argument. Then if they find out at the end of day that nobody listens to their argument, that it's a political decision on who knows whom, well, you just blew the political process down the tubes, in the sense that why should anybody be involved in anything, why should they vote, why should they care what happens with the government? The alienation rolls along.

I'm saying you should show some sensitivity. We make a series of recommendations. It would be better, instead of what's happening right now, to really look at the process and develop a mediation process at the very beginning to see if it could happen at that stage, before, as I say, the whole neighbourhood's up in arms.

It would be desirable to have some sort of process, especially dealing with "minor." Part of the problem is that no one has gone and revisited the definition of "minor" since 1977, and if "minor" truly meant "minor," you might not get some of the disputes. For example, I know one case where a person tried to introduce an auto body shop into a commercial area where it was prohibited by calling it something else and claiming it was a "minor." It went all the way to the OMB and it was a three-day hearing. Finally at the end of the three-day hearing, the chairman realized the argument from day one, that the city had specifically zoned auto body shops out of this area and this was an auto body shop pretending to be something else, and he realized he should have dismissed it back at day one.

There's a problem here. To the extent that we can try to deal with it, it's desirable. To the extent that we simply make the changes proposed, I don't think they're going to solve the problem. They may streamline it, but the result may not be what you want. If you're really trying to streamline, mediation at the beginning would tend to streamline and maybe remove the disputes, where if a neighbour moves his wall three or four feet in a different direction, the appeal's over with.

That's essentially the submission. There's more detail, but I really didn't want to go into it all, but you could read it over. As I say, that's the problem: The definition of "minor" hasn't been really looked at since 1977 and it should be tightened up, and look at changing the process for mediation earlier on and probably a full hearing earlier on.

Mr Dale Ritch: I want to provide some background information for members of this committee, because the city of Toronto's committee of adjustment has been changing quite a bit in the last few years in terms of the type of workload it takes on. I'm not sure exactly how many municipalities outside of Metro have committees of adjustment or what kinds of issues they deal with, but the city of Toronto's committee of adjustment does not just deal with minor variances and consent applications, that is, severances, which probably might be more the norm outside of the city.

For instance, in the last couple of years, the city of Toronto has introduced some major changes into its planning procedures so that, for instance, conversions of commercial and industrial buildings to residential use are now allowed to go through the committee of adjustment process. For instance, a couple of years ago there was a building, just one of many, 7 King Street East, which was

a very large commercial building converted to 315 residential units, and this was allowed to go through the committee of adjustment process. There's been quite a few conversions in the last two years. There's been at least a dozen major commercial or industrial buildings converted to residential use through the committee of adjustment.

At one committee meeting two weeks ago, there were two major development applications dealt with. Actually, both are quite close to this building. One was at Queen and Shaw streets, a large, five-storey, formerly industrial building located in a residential neighbourhood which the developer wanted to convert to 121 live-work condominium units. That was dealt with at the committee of adjustment, and on the same agenda, the same night, there was another major application at 424 Wellington Street, the Monarch Building—there was a big article in the *Star* a couple of weeks ago about this one—down on Richmond Street just west of Spadina, again a conversion of a formerly industrial building to live-work units, and this was in the middle of an exclusively industrial neighbourhood. This was particularly interesting, because the city has now launched a downzoning policy in a couple of sections of town to allow much more latitude for development of any type in an existing industrial neighbourhood.

A lot of these conversions raise a great number of planning issues which you can't really deal with at the committee of adjustment level properly, in our opinion, but the fact is that the city's decided to allow these conversions to go ahead through the committee of adjustment process and so be it. The point I'm making is that we're not just dealing with minor variances at the committee level now or consent applications, so the committee has broadened its scope quite a bit over the last few years in the city as compared to what the normal procedure would be.

I know there's quite a bit of feeling across the province that the Planning Act we have and the planning procedures we have have been an impediment to development and are slowing things down too much. You might be interested to know that right now in the city of Toronto, there are more than 20,000 units of residential dwelling units that have been given final zoning approval and yet no development, no action whatsoever has taken place on developing any of these units—20,000. What we have in the city of Toronto right now is an incredible glut of residential housing, to the extent that permission has been received to build 20,000 more units of residential housing and the developers are sitting on this, obviously because there's no market.

We recently saw some interesting stuff in the paper about a Hong Kong developer who wants to build four condominium towers down at Harbourfront. Maybe that's realistic, maybe it isn't. Nobody really knows. But if you take a look at condominium starts in Toronto last year and sales, you'll see that a heck of a lot more building is going on than units being sold.

The atmosphere we have in the city isn't really one of impediments to development by over-regulation. I think that's an important point to make.

The final point I want to make, and I guess what concerns us most about these proposed changes to the act,

is that if appellants have to pay their costs at the committee of adjustment level, let's face it, the rich guy's going to win every time, in the long run. If you're forcing appellants to pay administration costs, not just the costs of hiring their lawyer or planner or whatever but actual administration costs, you're creating a situation where it's going to be very unfair against small property owners. That's our main concern. We more or less represent as an organization small property owners, ratepayers' groups and residents' associations, and we feel that creating such an atmosphere would make it impossible for the small property owner to have a fair chance through the appeal process.

0950

Mr Michael Opara: There's an urgent need for municipal reform in this province, especially at the city of Toronto. I think that's one reason the city is in such a mess. I look forward to the province taking more action and doing more things in terms of reforming the Municipal Act, the elections expenses act and other acts.

But getting back to the committee of adjustment: To give you an example of minor variances that we've had go the committee of adjustment for, we had one building which was 60 feet over height, a major density increase, a new building, which went to the committee of adjustment; a house 100% over density, going to the committee of adjustment; another project which went from three times coverage to 3.8 times coverage. The city had just approved that whole strip to go to three times coverage, and it was in violation of the official plan. That went to the committee of adjustment. It was way over height.

The planning department, depending on what the project is and who knows whom, is steering projects to the committee of adjustment because they get through quickly. There's not enough scrutiny of certain projects. If we could redefine a minor variance and truly make it minor—for instance, one homeowner wants to build an extra foot towards the property line of the neighbouring homeowner—that's what the committee of adjustment should be used for, not for major projects where you have to investigate whether the schools and proper community facilities are in place.

We have to protect, in this process, the small homeowner. To give you an example, with my brother's house, the neighbour put in an application to go to the committee of adjustment to build a huge house next door. He lives in a bungalow in North York. The neighbouring house was going to extend halfway into his backyard, so half of his backyard would be shaded by this house. If there was not an independent committee of adjustment process with the right to appeal to the OMB, that house would have gone ahead. He was able, because there was time and because there was a chance for mediation because the committee of adjustment postponed its decision, to come to a satisfactory arrangement with the neighbouring property owner where everybody was happy. All the neighbours were happy with the plans; his backyard isn't being shaded; actually, the planning department said the new proposal was superior.

There is an urgent need that we keep the committee of adjustment process we have in place, with the right of appeal to an independent body such as the Ontario

Municipal Board. There are a lot of faults with it, but it did work, in this case, relatively well. Thank you.

Mr Trevor Pettit (Hamilton Mountain): On page 6 of your presentation you indicate that you support the return to the original wording of "shall have regard to." Could tell us why you feel that way? Also, if the change is made, do you see this as a sign that the government is relinquishing its role, or do you feel it'll still be able to monitor and have some input on any issues that are of provincial concern?

Mr Roberts: We actually opposed the original change from "shall have regard to" to "be consistent with." We felt it was mandating law by fiat, that you're giving the power to the ministers and the cabinet to make law, and that was inappropriate. The way the Ontario Municipal Board had looked at "have regard to" was that it was a very important matter to be considered, that government policy carries a certain weight just being government policy. The shift to "shall be consistent with" meant they didn't have the flexibility to say, "In these circumstances, this may not be appropriate." Depending on how in-depth those regulations got, there was a serious concern that it was removing due process at the OMB or at the city council level and making it an absolute requirement, which was inappropriate.

The reality is, if it's a government policy it has a certain level of weight at the board, period—always has had. There's a series of court decisions where the court had to remind the OMB that a letter from the minister, while it may be of interest, doesn't remove the fact it could be tested. When you have "shall have regard to," it means it's testable; "shall be consistent with" means it's not testable. You can't even prove that there are facts that warrant the policy not applying in a given set of circumstances. For that reason, I don't believe the province is relinquishing anything; its powers are still there.

Mr Hardeman: You suggest that minor variances are more than minor variances and for that reason it requires the OMB to adjudicate a great number of those. You also suggest that there may be an opportunity to put a pre-hearing in place, and with that in place, you suggest that the committee of adjustment could be the final appeal process.

Mr Roberts: A possibility, but with some sort of process, whether it be to council or some other body, that they can review to make sure that the committee of adjustment—to be quite honest, there was that situation in the city of York where it eventually it turned out that some of the committee of adjustment members were receiving benefits above and beyond what they should be getting in terms of making decisions. There was that implication.

If you have a body that is not appealable, the real risk becomes complacency because, "Nobody can look over my shoulder." People would simply do what they're going to do. I suggest that you could probably narrow the scope of appeal. At one point, there was an attempt to turn the OMB just into an appellate body, and it didn't work, partly because of the problems with the committee of adjustment—but some sort of review process, whether it be the OMB or some other body.

What we suggested about three years ago is that you might want to consider creating, for example, a regional

review board, an appellate body within the region to review those matters. It's still independent, and because it's drawn from more than one borough or municipality there's a possibility that it'd be harder to tamper with and we'd get an independent opinion that wouldn't reflect just that local municipality one way or the other. That's why I said the OMB or some other body.

But what's most important is at the committee of adjustment level, to make that a process where there really is a hearing at that stage and to allow the process. Right now, there's a requirement for the hearing to come on board within 30 days, whatever. If there were a process that allowed mediation at that stage where the normal process would be, the committee would try to sort things out. If nobody files a letter of intent of objection, the committee could hold a hearing at a given time without worrying about it, could do a whole pile of them all at once because they're pro forma. Where somebody says, "I have a concern," it goes into a process of mediation. If the mediation works out, it speeds up again. If you clearly identify what the issues are, people go to the committee with some sort of understanding of what they have to show, and it may help the whole process that way.

Mr Gerretsen: I'm very intrigued with your presentation, and I like this notion of having some sort of mediation beforehand and then giving the committee of adjustment wider powers, not only to deal with the application in front of it but to also make some amendments and changes, as long as it doesn't make the "minor" even greater than. If it's something less than, I think they should be able to deal with it.

I'm somewhat disturbed, though, as a former municipal politician, at this cynicism about municipal councils. I would suggest to you that if councils make their decisions on who they know etc, the same thing can be said for the committee of adjustment as well. In most communities, the same rule would apply.

Would you not agree that one of the main problems—I guess this is my hangup and has been for years, about all these matters that come in the planning area or committee of adjustment area—is just the lack of speed in the process, whether we're dealing with getting decisions out of councils, getting decisions out of the OMB, getting a hearing before the OMB, getting an application through the ministry's office—it just goes on and on. Time is money, no matter which side of the fence you're on.

Do you have any comments on that? The residents out there who may be opposing something have as much right to know where they stand early on in the game. They shouldn't have to wait a year or a year and a half either. Everybody always assumes that anybody who makes this kind of argument is pro-development. I'm no more pro-development than anti-development. I'm just in favour of getting on with it, whatever it is that's being brought forward.

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Mr Roberts: To be quite honest, with my experience at the city of Toronto and some other areas, usually the community gets advised that something's coming up; they get involved. Then it disappears into the labyrinth of the bureaucracy for a year and a half, two years, spews out again and the residents say: "But we've just got the

notice two weeks ago. We haven't had a chance to read this inch-thick report. Can you give us two weeks?" And the comment comes, "But we've been dealing with it for two years"—"but, but, but, but." Part of the problem is that when it gets to the bureaucracy or gets outside the political process or people are excluded from the process and decisions are made—I've even seen the situation with site plans where the applicant sits down with the site plan proposal, goes through the whole site plan process for a year with the local planners, then it spews out into the community and the community starts raising issues, and there's further delay.

In some ways, the problem with the process that I see is that there's a failure of the community getting involved early enough to know what the issues are. I also sometimes have found that it's during the process of waiting for the OMB. In terms of city plans, for example, further discussions with the planners resolved several issues that hadn't yet been resolved while we were waiting for the lengthy OMB hearing to start. What could have been a three-year ended up being about three months, simply because there was pressure on everybody to resolve it.

The Vice-Chair: Excuse me. If you could tighten up the answer, I'd appreciate that. I don't mean to be rude, but we're going into lengthy questions and therefore lengthy answers, it seems, and we're running into other people's times. If members would shorten up the questions, it would help a lot.

Mr Gerretsen: There were three questions from the other side, Madam Chair.

The Vice-Chair: It was still within the time parameters.

Mr Gerretsen: We'll start timing them from now on.

The Vice-Chair: I am.

Mr Roberts: I'll try to make this very quick. Part of the problem too is that if you shorten the appeal period, you increase the number of appeals. For example, if you have a 20-day appeal period after a decision, you're basically saying that people have to make a decision whether they're going to file an appeal and they may not have a chance to talk to a planner or a lawyer, so what are they going to do? The advice from any lawyer is, "File your appeal and work it out afterwards." Once they've filed their appeal, there's a tendency for people to go into a state of, "I don't have to do anything for the next six months."

Ms Churley: I don't have time, but I have a number of questions. We have some agreements and some disagreements. I would like to go into those at another time.

I want to ask you specifically about something you didn't touch on in your brief but you may have an opinion on. One area I have concerns about in the new bill is that only the Minister of Municipal Affairs and Housing can now appeal at the OMB and that the Ministry of Environment and Energy and Ministry of Natural Resources etc will be able to do that. The minister says it's a coordinating role. My concern, and I'll tell you up front—I've been in cabinet, I've been there—is that I know that sometimes certain ministries get shoved aside. If there's a development that the Minister of Municipal Affairs really wants, it's going to go ahead. The fact that the Minister of Environment and the Minister of Municipal

Affairs could have their say, could tell the public up front what they're concerned about, would have an impact.

It appears it's not going to happen any more. What's your opinion on that? It's been said it's in the name of speeding things up, blah, blah, blah, but it has some serious implications for the public.

Mr Roberts: Actually, I view it as a conflict of interest. When the same person who decides whether to refer an official plan also decides whether they're going to object to it, you're creating a problem. I had a situation where—I'll try to make this short—there was a possibility of expropriation going on and the minister sat on the referral to the last possible moment of an OP amendment. I'm not saying there was anything untoward, but it creates the impression that something's occurring there. If you're going to have one ministry alone doing it, it probably should be the Attorney General, and the Attorney General would act as agent for the other ministries. In theory, the Attorney General is far enough removed from municipal affairs and planning that it could provide the coordination and be an independent body that isn't getting advised by the same planners who said, "There's no problem here," or "There is a problem here." In other words, is the judge deciding whether he will ask a party to come or send a party to the table, or even the prosecuting attorney deciding? It's the same person. The judge and the prosecuting attorney are one and the same when it's the Ministry of Municipal Affairs.

The Vice-Chair: Thank you very much for coming this morning.

Mr Roberts: We appreciate. It was short notice, just from 10 o'clock yesterday.

Ms Churley: Madam Chair, before we move on, I just want to make a motion, and I'm wondering if I should table it right now so we can deal with it at the end of the hearing this morning. Is that okay?

The Vice-Chair: Yes, go ahead.

Ms Churley: I'd like to table it now.

I move that this committee formally request the Minister of Environment and Energy to appear before this committee to answer questions relating to the effect of the Planning Act amendments, Bill 20, on the environment and the people of the province of Ontario.

I just moved it as opposed to tabling it, did I?

The Vice-Chair: You're moving a motion, is my understanding.

Ms Churley: Yes, I guess I just did that.

Mr Gerretsen: I'll second it.

The Vice-Chair: There's no need for a seconder.

Ms Churley: I'm happy to leave the debate till after the submissions. I think that would be better rather than at this point.

The Vice-Chair: That's right. So what you're asking for, then, is one stage for this motion to be acted upon but to proceed with the hearings today.

Ms Churley: Sure, and then at the end of the hearings at lunchtime we can deal with it.

The Vice-Chair: Is everybody agreeable to this? We will proceed with the hearings as we are now and we'll deal with the motion before we adjourn this morning. Everybody agreed? Carried.

ONTARIO SOCIETY FOR ENVIRONMENTAL MANAGEMENT

The Vice-Chair: We have the Ontario Society for Environmental Management. While they're coming forward, I'd like to remind committee members that we are trying to adhere to the 25-minute limit. I will be asking for brief questions and whatever answer is necessary to the question, but we're going to have to adhere to the 25.

Mr Gerretsen: And that's for all sides.

The Vice-Chair: We started a few minutes late, and just to let you know I am timing and I have recorded times. In fairness to all parties and those who have to follow, I'd appreciate that. We welcome you here this morning. If you'd like to introduce yourselves.

Ms Ann Joyner: Thank you very much. I'm Ann Joyner, the current president of the Ontario Society for Environmental Management, and this is Mark Stevenson, who's one of our council members and the chair of the policy committee.

Just as an introductory point, I'd like to say that the Ontario Society for Environmental Management is a volunteer organization. We get all of our funds through revenues from our members and through events. Mark and I are both environmental planners in private practice and doing this as a volunteer initiative.

The OSEM was established in 1976. I'm going to summarize the brief that you have in front of you. You might want to keep the recommendations section in front of you as a lead-in. It's an interdisciplinary association with about 150 members right now, and what's unique about it is that it draws membership from a variety of different disciplines including law, planning, biological sciences and social sciences. We are united by ecologically based principles and are resolved to maintain and enhance environmental health. We promote environmental management through conferences, meetings, seminars. We have a newsletter and we participate in initiatives like today, providing comments on public policy, and we did so for the previous government as well.

With regard to the bill itself, we are very pleased to see that the emphasis continues to be placed on the protection of the environment in the new directions described by the government. We also very much support the need to streamline government and create a faster, less costly approach to environmental management. Many, many of our members have experienced quite negative situations where things could have been done more quickly and more cost-effectively.

But we also have some suggestions where we think that things could be improved to come up with a better balance that protects the environment and allows flexibility for municipalities. That's the focus of this brief, to provide comments that we think would improve Bill 20 and some of the other initiatives.

The focus of this brief is obviously Bill 20, but we want to stress that we think it's important that the government considers the effect of Bill 20 with the other initiatives that are ongoing right now, with particular emphasis on the policy statement which has been released. We are also commenting on that and will provide a second brief to government staff on that. I don't believe it's coming to the legislative committee.

The combined effect of the policy, the bill, Bill 26, changes in administration and the fiscal policies of the government are fundamentally changing the way that environmental management will occur in the province, and we urge you to try to consider how all of those things are interacting together.

1010

I'm just going to briefly touch on the policy, because it connects to the statement of "have regard to" or "be consistent with." Our brief on the policy statement is going to say that we believe that the policy statement lacks clarity and does not carefully and succinctly define what the provincial interest is in particular matters regarding the environment.

We're going to comment that we think that improvements could be made to the policy and in particular that the guidelines and support documents should provide better guidance on environmental management. I think my catchphrase on the policy has been that ambiguity is no replacement for flexibility, and I think you need to think about that with regard to the policy statement.

Now I'm going to get on to the general comments on the bill itself. In our opinion, planning reform has to meet two primary objectives with regard to the environment, and that is to increase certainty and efficiency of the process and to ensure that important natural systems are protected permanently. To do this, municipalities must be instructed to protect key features and systems in a consistent and comprehensive way and municipalities must have the support of the province to achieve this.

Because the municipal plan is one of the strongest instruments available to protect the environment, it's our opinion that the role of the province is to clearly define the fundamental provincial expectations for the environment for municipalities, so that every municipality can then embody those expectations in its official plan, which then becomes the actual instrument that affects on-the-ground changes, affects how land uses occur.

The other sort of general point I'd like to emphasize, particularly to this group, is that the province varies considerably in terms of the environmental policy in place today. The GTA and municipalities like perhaps Waterloo and Ottawa-Carleton represent the most progressive municipalities. They've got good provincial policies in place. They've spent a lot of money doing research and data. But they don't necessarily reflect the whole province.

We have to be careful that the kind of legislation that comes forward is geared not only towards the GTA but towards the other municipalities, rural and northern Ontario, that perhaps don't have the resources in place and haven't put in place the structures that these more advanced and resource-rich municipalities have been able to do. We see that a lot in our private practice.

Now into the nitty-gritty here. The first point I'm making in section 2.2 of the brief is with regard to "be consistent with" versus "have regard to." It's OSEM's position that the movement back to "have regard to" will only exacerbate uncertainty and lead to greater inconsistency and vagueness in the way that we protect the environment.

We recognize that there is a need for flexibility at the municipal level and for choices to be made at the municipi-

pal level, but we think that flexibility can be embodied in the policy statements themselves. The policy as it exists today is extremely flexible. Every single statement has an out for the municipality to undertake its own approach to implementing the policy. The combination of that kind of ambiguity about flexibility with "have regard to" is too much flexibility. It just doesn't leave enough provincial direction on environmental management. We've always, as an organization, supported "be consistent with" and we will continue to do that.

The second point is with regard to greater delegation of power to local municipalities, and this is a general point. Natural systems, as most of you realize, aren't defined by municipal boundaries. Things like the Niagara Escarpment, the Oak Ridges moraine and watershed boundaries extend beyond the municipal boundaries and it's the provincial responsibility to ensure that municipalities work together to deal with the environment in the appropriate units. That kind of leadership, in our view, is not promoted in the current bill. Some of the more specific things I'll raise in a moment. We'll give you some more specific changes that we'd like to see to promote ecosystem-based planning.

The next point is mandatory planning for local municipalities. The current bill focuses on the county level and the regional level and requires that official plans be developed for those levels, but there is no requirement for local official plans to be developed. We recommend that section 17 of the act be amended to require official plans at the local level, which would then require local municipal plans to reflect the policy statements which, in turn, will ensure the protection of the environment at every government level.

We have some specific comments on sections of the bill. New subsections 1(2) to 1(4) refer to Municipal Affairs as the only public body, and I believe a question was just raised on this for appeals. We support the idea of a one-window approach. All of us have experienced situations where different ministries come forward with opposing views that aren't balanced internally for the government.

Obviously, it's important that the government tries to get its own house in order before positions are raised with the public, but at the same time we're quite concerned that only Municipal Affairs has the ability to appeal. It doesn't leave any check or balance on Municipal Affairs and, frankly, we just don't want to put all our trust in Municipal Affairs to make the right decisions to ensure that they're informed correctly.

Specifically, that relates to two things. One is the appeal ability and the other is the ability for individual ministries to decide whether they want to be at the board to protect their interests, regardless of what position the government's taking at the board. Although we support the idea of one window and that the government should get its house in order and come forward with one position, I still think that the check on that should be that provincial bodies have the ability to appeal and that they have the ability to decide whether they want to be at the board.

Next is powers for exemptions. Sections 4 to 7 of the bill allow the minister or approval authority to exempt plans and plan amendments from the requirements for

approval. Given that the official plan is the most primary tool for local planning, we have a lot of questions about what the purpose of this exemption provision is and what the requirements and criteria will be for enacting this exemption. We recommend that the criteria for these kinds of exemptions be predefined now and that that process for those exemptions be put on the table so that we as a public understand what this exemption provision is all about.

With regard to the time frames, we support the idea that reduced times should be a definite priority with regard to all planning approvals, because there is no need for the sorts of time frames that have happened consistently in the past. But good planning requires good information to be at the table, so the time frames should be connected to the prescribed information.

Just for everyone here's information, what happens when an application comes in is that there's an amount of information that is called prescribed information that's required before the time clock begins for these time frames. At the moment the prescribed information is extremely minimal. If you put your name on the application with some location information, the time clock starts. In our view, to make good, informed decisions, the time clock shouldn't start until all the appropriate information is on the table. Either the prescribed information requirement should be enhanced to ensure that all information necessary to cover all the policy statements is on the table or municipalities should have the flexibility to crank up that prescribed information requirement.

With regard to the deletion of the requirement to hold a public meeting for plans of subdivision, we don't support the deletion of this requirement. From an environmental perspective, the public is often the body that brings forward important information on community values and environmental quality and environmental features, and to reduce the opportunity for the public to speak in a comfortable forum, as opposed to at council, I think is a movement in the wrong direction. I also think that the expectation exists right now—the public expects at least the level of public consultation that we've got now—and to reduce that is going to cause problems.

I'm on section 3.6 of my brief right now with regard to development charges. Sections 45 to 57 of the bill contain some amendments to the Development Charges Act but, more specifically, there is a review under way. Some of the information that was released with the media package on the bill indicated that the intention is to link development charges specifically to hard services. We have a concern with that with regard to the kinds of studies that we think are necessary, and coming back to my ecosystem-based planning approach, many kinds of studies that are needed to deal with environment and infrastructure, like water, sewer, transportation, master planning and sub-watershed planning, require interjurisdictional studies, and they require studies that should be funded by more than one developer, if you're going to use development charges.

1020

The current development charges allow those studies to be funded. We've seen many good examples of where development charges have been used to fund necessary studies that will provide the growth strategy information

that we need to establish the need and the appropriate locations for infrastructure. We should continue to be able to use development charges in that manner.

We would be concerned with a movement specifically to only hard services for the Development Charges Act. I understand that this government is really promoting the idea of public-private partnerships, and this is one place where it's working very well right now. So let's not move in the wrong direction.

With regard to the transition provisions, our only comment there is that we just went through a whole year of trying to understand Bill 163 and the transition provisions. We're now trying to understand the new transition provisions and, frankly, it's extremely confusing to us, who spend our whole lives trying to understand this. I hope that a really concerted effort towards education will be put in place so that everyone knows where they stand, depending on when their application got in the mill.

Finally, there is a great opportunity at the moment to integrate planning and environmental approvals. If an initiative that's on the table is streamlining and efficiency and cost-effectiveness, we think this government should take one step further and think about integrating environmental approvals under the Environmental Assessment Act and other regulatory standards with planning.

It's our position and the position of many of our members that the time has come and we're at a point where we've evolved and we understand what benefits the Environmental Assessment Act has brought to the table, the Planning Act has now been adjusted to try to reflect some of those elements and the time has come to integrate the two processes. Instead of having to go through infrastructure approval under the Environmental Assessment Act and planning approval under the Planning Act, let's think about how we can put the two processes together.

There are a number of initiatives by various non-government organizations to provide some leadership in this regard, and OSEM will be part of that. OPPI, which is the Ontario Professional Planners Institute, the regional commissioners and AMO all think that this is an initiative that's worthy of action in the near future, so we'll be providing a more specific brief on that at some point in the future.

I guess, finally, I'd just like to say that OSEM is pleased to be at the table today. We'd be happy to work further to develop some of these ideas and provide more specific thoughts, if that's required. We thank you for having us here today.

The Vice-Chair: Thank you. Would you like to address the group as well or shall we go into questions and answers?

Mr Mark Stevenson: Move to questions.

Mr Gerretsen: I'm curious about the position you've taken on the "have regard to" or "be consistent with" provision. We just heard from another group before yours that took exactly the opposite viewpoint but for exactly the same reasons. They were basically saying that if you went to a "have regard to" statement, there is in effect more certainty in that at least you could say, at the OMB level, the municipality has looked at it and may have rejected it for whatever reasons. I wonder if you could

just expand on your position on this matter a little bit further.

Ms Joyner: I'll start and then Mark can add in. My position is that even if it is "be consistent with," there still would be a requirement to demonstrate that you have been consistent with a policy statement. So the idea that it will be unnecessary I think is not correct.

I think fundamentally we all agree that what we want is clear leadership by the province, allowing necessary flexibility for municipalities to do made-in-municipal solutions. I don't think there's any argument about that. The argument is, how do we get there? Our position is, the combination of vague policy statement and "have regard to," which is vague, is too much vagueness, too much ambiguity. We either need to strengthen one or the other to achieve what we want, which is clear provincial direction with flexibility to allow municipalities to have made-in-municipal solutions.

Mr Gerretsen: When the provincial direction changes through new policy statements, what's your position with respect to your input or the public's input into that process? Do you have a position on that?

Ms Joyner: I think, like in any other policy or legislative change, we need to have input the same way that we're having input right now into the policy statement. We are finding it frustrating that the only input we're having to the policy statement is at the staff level and that we don't have access to this kind of group.

Mr Gerretsen: I'm not from a two-tier municipality, so maybe you could just explain this to me. In moving the official plan level up to the second tier, the higher tier, would that not apply to the lower-tier municipality as well then? Do you follow what I'm saying? If you had an official plan for an upper-tier municipality, why would it be necessary for a lower-tier municipality to have an official plan as well when in effect they are part of the upper tier?

Ms Joyner: I think the practice is that the local municipality do produce plans that are on a community level and they reflect much more specific needs and desires of the local community.

Mr Howard Hampton (Rainy River): Thank you for an informative brief. I just have some very direct questions based upon the points that you've made. In your opinion, will this bill and the associated policy statements in fact lead to ecosystem planning or ecosystem-based planning?

Mr Stevenson: I'll start.

Ms Joyner: Yes. That's a big question.

Mr Stevenson: Currently, the combination of the two we don't think promotes ecosystem planning. We're reviewing the version of the policy statements now and getting our comments together, so we haven't quite done that as council yet; they're due in early March. It is too vague to really direct an ecosystem-based approach to planning and touched on our concern about ecosystems crossing municipal boundaries and what you do there and what the provincial role is. Currently, the combination of the bill and policy statements does not foster or promote ecosystem-based planning.

Mr Hampton: Can you explain to us why it's important that we move to ecosystem-based planning? Why is

it important that we search out significant woodlots and seek to have them protected or properly managed within a planning system? Why is it important that we seek out the headwater areas of significant streams and rivers and ensure that they're not paved over or used as draining ditches?

1030

We talk about this but it seems to me there's a fundamental issue here. We enjoy—we have enjoyed for the most part—a fairly attractive physical natural environment here in Ontario, but it seems to me we're in danger of losing it if we're not thoughtful. So why should we do this? Why is it important to protect those significant woodlots? Why is it important to have a planning system that recognizes the tributaries of creeks and rivers and so on?

Ms Joyner: Let me start on that one, again a big question, but three points. The environment reflects quality of life and quality of health, and clearly the protection of water quality, air quality and natural systems is what gives us the ability to breathe clean air and drink clean water.

On a more practical level, though, there are two reasons that we focus on ecosystem-based planning, which is going beyond municipal boundaries. One, as I said, is that natural systems don't respect municipal boundaries. For example, a stream crosses a municipal boundary. The water quality has to be assessed with regard to how it starts in the headwaters and goes down to Lake Ontario. The only way of managing that water quality is to manage it as a system, to understand how something that happens at the top of the stream affects what's going on at the bottom of the stream. So it's very fundamental to natural system quality.

Another point is that these features cross municipal boundaries. For example, on hard features like forests and natural habitat units, if we follow the process we've got right now, you might have the same forest on one side of a municipal boundary not being considered to be significant and on the other side being considered to be significant. It's important that we understand, is it significant or not; what needs to be protected; how much of it needs to be protected to keep those animals or features that we think are important to us intact?

The second important thing is a lot of the infrastructure that we need to support the kind of quality of life we have right now: Storm water, water supply, sewers and transportation cross these municipal boundaries and are planned on a cross-municipal basis. For us to understand the implications of that infrastructure on these natural systems, we've got to be planning for them on this broader basis.

Mr Bruce Smith (Middlesex): My question is taken more from the general perspective. You mentioned during your presentation the environmental management practices that have been achieved in Waterloo and a couple of other municipal jurisdictions. I would contend perhaps that that hasn't been necessarily achieved solely at the direction of provincial policy. I think there has been some local initiative, either through the region or otherwise, that has achieved that excellence.

Would you, from your perspective, not see that it would be appropriate for the government to establish a

minimum standard, as we have done through the provincial policy statement, and then, given your comments with respect to transition in the role of education, see an increasing role for organizations such as yourselves and other municipalities that have placed a priority on this area to achieve standards that exceed the minimum anticipated in the policy statement? Do you see that as a possible role, whereby we'd get a direct application of experiences through your organization and others in the context of a mentoring process?

Ms Joyner: I think that's a worthy initiative. What I would argue with is that I don't think the provincial policy sets a minimum standard that will be or can practically be applied across municipalities. That's where I think the fine-tuning is needed. You just have to look at the water quality and quantity or a cultural heritage policy to see that there is no real direction provided in that policy other than, "You should consider water quality." There's no minimum standard whatsoever provided in that policy statement. I think if the policy statement has a minimum standard, then your mentoring system is an excellent idea for taking the excellence that we've achieved and spreading it around—I totally agree—along with some resources and program initiatives, yes.

Mr Stevenson: I think we agree that the province needs to define that minimum standard to protect that provincial interest, and that further enhancement—not only maintenance and protection in that case at the minimum standard—could be and should be promoted throughout the province. So defining that minimum standard, I think as Ann said, is a question mark right now and the difficulty.

Ms Joyner: I heard an excellent statement by a fellow planner who said he felt that some of his clients have expressed to him that they feel like they're on the road going towards environmental protection and they can see the provincial government passing them on the highway, going the other way. That's a really serious concern and I don't think that's the perception you as a government want to be promoting. But that is perhaps the perception that's out there, that the municipalities are ahead of you.

The Vice-Chair: That's the close of our time. Thank you for coming. We enjoyed your presentation.

MARGARET HUTCHISON

The Vice-Chair: Would Margaret Hutchison like to come forward, please. Margaret, welcome. I would like to advise the members of the committee that there is no handout. There will be one coming later.

Ms Margaret Hutchison: Thank you. I'm really glad to come after the group ahead of me because they've done more of a line-by-line assessment of the bill and I probably concur with a lot of what they've said. I'll introduce myself in a little bit. I have learned planning by confrontation, planning by the OMB hearing, and I'll be giving you some examples that will answer some of those questions.

I'm a farmer. I live in Grey county. By profession, I'm a consultant on communications and medical research and science, not a planning and legal professional, but through the planning process and my introduction to it,

I've become a quasi advocate at the OMB for farmers and developers and anyone who has difficulty with the planning system.

My first involvement, actually, was a letter to the editor. I read an article in the *Globe and Mail* on the Algarve coast in Portugal, and the headline was, "Billion-Dollar Industry Going Down the Tubes as Development Takes Over Algarve Coast." It seemed to fit in with some of the issues that I was being presented with, which was a hydro corridor that would go between my house and barn after I'd just invested a large amount in my house there—I might have chosen another site had I known that was in the works—swiftly followed by a conversion of what is a provincially significant wetland formally known to me as "the swamp." Ontario Hydro was told to go around it because it was going to be difficult. It's the headwaters of five rivers in Ontario. It's on the Niagara Escarpment. A lot of issues I had never paid attention to before, but when I found that it was still going to go ahead without my input—and subsequently, then, the application to convert this to a hunt club next to my sheep farm. The two uses did not seem to me compatible.

As a result of this letter to the *Globe and Mail* then, I received responses from—I didn't even know people in my county could get the *Globe and Mail* at the time. I used to drive 20 miles just to get one on Saturday, and that was the closest we came. But there were a few people who read it. Out of that then came several people who had been former municipal reeves involved in the development of our county official plan who were finding that this plan was being totally ignored, and their friends and neighbours who have other occupations besides staking their turf against residential development, gravel pits, snowmobiles, other farming operations which were not compatible with their own. For instance, I wouldn't want someone raising wolves beside me. Their county was really in an economic crisis because of this.

In fact, the province was sustaining bad planning by, with the one hand, allowing people to go to the Ontario Municipal Board, allowing municipalities to make decisions and totally disregard their official plans, and allowing them to tell land owners, "If you don't like it, you can sue us or you can get a lawyer and a planner and everything else and we'll deal with that," and, with the other hand, had their hands out that any problems that had occurred, the province would simply subsidize them. For instance, in water and sewage applications, the province will subsidize 85% of fixing the problem.

As a taxpayer—and I think in this recent election you've heard from a lot of other people like me—that does not make sense. I'm pleased that some of what has been done with the Planning Act that I have been involved with the last five, six years through two governments now to streamline and make sense of, is occurring. But as the group ahead of me pointed out, there are a few things which I still have difficulty with.

I'm not going to dwell on the "shall have regard to" and "be consistent with"; I'm sick to death of that. But the objective to have clear policies on the province's part, a bottom line that says this is the product we want to come out with, this is what we need to give our citizens the kind of security, whether they're farming, whether they're building a retirement home, whether they're

starting a ski club, whether they're opening a gravel operation. If the school board builds that school right beside the gravel pit—subsequently we've had a school that had to move because the two were getting closer and closer. It's now a hockey camp, I believe. I'm not sure how that's compatible, but I guess they don't go out for recess, they go over to the local arena. But there was, I don't know, \$4 million or \$5 million of a school just torn up because no one was thinking that of course the gravel use would expand, because that's where the gravel is. God put it there. You can put houses or schools in other locations. The whole purpose of this planning is to provide that kind of security for everyone.

1040

To go back to that theme, a perfectly good term I feel has been overused—"common sense." In planning, common sense for one person is not common sense for the next person, and the whole purpose of planning is to allow everyone to have some measure of security and economic benefit. I'm pleased that the sort of long title for this bill is to support economic development and the environment, and the two are definitely compatible, interchangeable, interdependent. We cannot afford not to protect our environment.

In an instance of an area where development was banned five or six years ago, because of projected water plans which the Ministry of Environment had raised, in an area which is a bedroom community to a larger area, now those people—and their expectation is what has been dashed—are suddenly being asked to spend \$4,000 or \$5,000 extra simply to have that water upgraded. The buildings either never should have been there in the first place or everyone should have agreed that yes, it's worth it to do this right. But let's do it right, because we can't afford to have all those houses suddenly empty; or they can't be sold, because who will buy a house that has no clean drinking water and no way of disposing of waste?

In a sense, when I say I've worked through three governments, this goes back to the expectation after the Second World War, as you all know, of the Planning Act to just provide this kind of security for Ontario. I'm not going to dwell on the "have regard" and "be consistent with," as I said, because we've all heard too much about it. But I think if this government does nothing else with this bill, give clear policy to prevent the kind of confrontations that I see every day and take time out on my-you know, no charge to go and help people, and my only success is that I haven't lost an argument at the OMB yet, because it's always common sense, and you can't ignore that. When it's been put into an official plan and everyone's agreed on it, there are no exceptions.

One of the issues that is of special interest to me and that I worked on through these last six years is the notice regulations. My feeling is that if everyone who would have some stake in—often this applies to provincial ministries. There are ministries that have not been notified that there's an application going ahead. My concern with not allowing a ministry to make an appeal to the Ontario Municipal Board or to Municipal Affairs to ensure that they appeal it is in the case where there's such a swamp of paperwork and data is wrong, an application does have a mistake in it. This has happened time and again. In my own case, the Ministry of Natural

Resources approved something and it had looked at the wrong property. When you get out into the backwoods, it's not difficult to happen. We're improving that a lot now with our new GIS—geographic information system—computer mapping and integration. I hope all of those initiatives that had been started under the reform of the Planning Act through Bill 163 will continue.

But this is where good notice to everyone involved will ensure that the kind of information that has to come will be there and that we will not be paying for the kinds of mistakes that I've seen happen time and again. In one instance, the Ministry of Environment sent someone and wondered why culverts were 10 feet off the ground, thought the Ministry of Transportation must have been dreaming that day. Anyone who's lived there as long as everyone in the neighbourhood has knows that every once in a while that highway is completely under water, and so is everything around it, and of course you couldn't put three retirement lots in that area. But for the person who brought it to the ministry's attention, it involved two years of struggle with an OMB hearing, with, "Do I get a lawyer or not?" and not for his own property, simply for his own community, for the potential neighbours who would move in who would subsequently, the first year their basement flooded or their road was washed out, be going to his own municipality, which would be liable for that decision. This is the kind of thing that this bill is going to hopefully straighten out.

The other part of the bill that has been of particular interest to me, of course, is what was formerly policy D—I'm not sure whether all those names apply—the agricultural policy. I'm quite involved with the federation of agriculture. Grey county—and Bruce to some extent, but more Grey—is not entirely unique in the province, but we have excellent farm land interspersed with rocky pasture land. As sheep farmers, as beef farmers we make the highest use of that land by pasturing our livestock on the poorer land and using the good land for our crops. There is a saying in our area: There are no poor farms, simply poor farmers.

The kinds of conflicts: Every time I go to a federation conference, everyone's talking about, "We need stronger right-to-farm legislation." If the whole purpose of planning is to eliminate those conflicts, we won't need that right-to-farm legislation, because the security that we need will be there.

Like any industry, whether it's farming, agriculture, building houses, there are ups and downs. I think Mr Hampton asked, why do we have to worry about this woodlot, that headwater? The policies that you have—and I'm glad that they've been sort of streamlined or made simpler and more understandable—are comprehensive. You can't tinker with one thing over here and not look at the piece over there; they are all integrated.

Our economy goes up and down just like our stock market, which currently is right up at the top. A few years ago, I think a lot of our planning mess was inspired by that mid-1980s development high which sent everybody off on to cloud nine. I'm seeing a lot of those people's hopes dashed, houses that have been built that have been retired to. In the policy, I see the retirement lot has been put back in. I think the majority of farmers would say that is simply a headache; it's a red herring.

A lot is a lot. Whether you retire on it, whatever you do on it, subsequently it's a land use; somebody will be living there. You can't expect a farmer to live on the corner of a property forever. Sooner or later, someone will be there, and I know many people now who are there, who have houses they can't sell. Who would buy two thirds of an acre when you could by a whole 100 acres down the road for exactly the same price and not be surrounded by somebody spreading manure? In the one instance, they throw their rocks out into the field. The farmer in the spring throws them back on to their lot, because as he says, he farms right up to the fence. It's his field; it's one of his best hay fields.

So in the agricultural policy I would hope that there would not be any tinkering. Look at that retirement lot case. This is possibly where the "have regard for" debate—each area will decide. The difference between Essex and Grey in terms of agriculture is great, and Bruce or North Bay, whatever. Each area will decide, but the bottom line is that we cannot preclude the fact that in the future agriculture will be more important than it is now. We won't know how important it is until it's too late. Although you can put a house anywhere, you can engineer anything in an urban environment, when it comes to farm land you don't have those options. We're quickly losing the good land that we have and, through erosion and flooding and a lot of other things, we're downgrading the good land that we have as well.

That's where the notice regulations in the rural areas are particularly important. I think in an official plan, once you've decided there's going to be a development in a particular area, the kinds of notice and discussion that take place are quite different from when a land use is totally changed from a hay farm to a gravel pit or to a subdivision. The time lines on official plans and official plan approvals: Although 180 days may seem long, in the context of the kind of planning we've had—Grey county started its official plan three or four years ago and it still doesn't have it done—180 days is not too long, but certainly 90 days is simply not going to work if we're trying to get the kinds of good planning that we want.

1050

I'd make an analogy to going to a bank with a business plan to borrow money. If your business plan simply said, "Give me the money," the bank would say, "It's been nice meeting you." But if you go with detailed plans of what your expectations are, what you're going to do, what you expect that financial supporter to help you with, you're probably going to go ahead, and you wouldn't even go if you weren't serious about it. You would have taken at least a couple of months or whatever was appropriate to get your plan together.

So I think those time lines have to be looked at again. That's where I say I think the comments of the group ahead of me—and I know Waterloo county looked at the same things I was concerned with.

Something that hasn't been raised at all, and maybe this is a good place to put it in—I've written on the top of my page, "water." In our area and in Bruce and Simcoe, and to some degree in Dufferin, water extraction and the extent of water extraction has become a real issue. We're the headwaters for groundwater in Ontario, and I don't have all the statistics on how many of our

communities are dependent on groundwater—clean groundwater—but there has been an initiative to include water extraction for commercial purposes in the Planning Act as a land use.

This is coming from land owners and from municipal politicians alike, and I'm not going to go into it now. I think the bill was called Bill 126 or something, a couple of years ago. I know Ms Fisher knows it quite well, knows exactly the issue, because it's right in her backyard. It's Formosa, I believe, a brewery, and then someone who's simply taking water. Not to preclude that this isn't an industry too, but why do we have to keep our water clean? It's not just so that I can go outside my door and get clean water, but this is going to be a natural resource that is a big commodity and is something that makes Ontario attractive to industry coming here.

I asked a water bottler once, who was using water to make fruit juices, actually, exporting to the States, how they could compete with all the other big companies that they were competing with, and they said just saying that it comes from Canada is—people assume that it's clean and that it's a better product. I'm not going to dwell on that now, but I think that's something that should be looked at to put back in.

I was on a list to comment on Bill 26, only because of the conservation authorities, and I'll be brief on this as well. The initiative there basically to kill them is inconsistent with what we've been trying to do and I believe governments have been trying to do, which is to put more responsibility and accountability with the municipalities. These water issues are just such a case.

Perhaps if Ministry of Natural Resources doesn't want the conservation authorities, maybe it could give them to Municipal Affairs and have them coordinated with the Planning Act. This is where the suggestion of all these environmental assessment acts, all these things that have to do with planning—in the case of conservation authorities it's planning for water quality and quantity—should be coordinated. Maybe this is the time, if MNR has difficulty with managing conservation authorities, the appropriate place would be Municipal Affairs.

I'm not going to go on too much longer. One thing I wanted to say was I've heard a lot of grief about those 700-page guidelines. I know that's a good door stopper; I have two copies. But the red herring is that this simply puts on paper what basically professional planners have known and allows some measure of shared knowledge across the province. Of course, several people were horrified by it, because maybe they didn't know they knew so much or there was so much to know. We can be overregulated and that's where I'm glad to have things simplified, but we do need the support of the province for municipalities when they're drawing up their official plans. I don't think you can opt out, as the group ahead said, without good reasons why. Your official plan might not deal with some kind of density if you're in Timiskaming or somewhere, but we have to remember that it has to be simple and clear. We also need strong support from the province so that wherever you live or work in the province, you know that you have the same kind of basic rules.

I think that's all. I am going to sort of put this into a short brief, just my basic points, to remind you of them.

Mr Hampton: I want to ask you this: Grey county has been notorious over the ages for what you might call haphazard planning, and I understand there have been all kinds of fights in Grey county about overplanning.

In your view, will this bill and the associated policy statements lead to good planning, or will it lead to more of the haphazard decisions and more of the battles that you've had in Grey county?

Ms Hutchison: From my initial reading of it, this bill would provide a context for good planning, provided the province will provide the kind of support and requirements for those good plans and will allow the kind of economic planning and accountability that we need. What I didn't mention was the importance of that conflict-of-interest legislation that was appended to this whole planning initiative originally and which is going ahead. We're planning not for individuals, we're planning for communities. So with those refinements, I think the policies are good but if you don't have to follow the policies, then of course we're going to be back to where we were.

Mr Hampton: Which takes us back to the issue that you said you didn't want to get into.

The Vice-Chair: Excuse me, Mr Hampton. We were at a minute and I'm just trying to keep proceeding here, if you don't mind. I'd like to go to the next question, from the government side. Sorry.

Mr John R. Baird (Nepean): I appreciate you coming down and giving us your thoughts. I think you bring a different perspective than maybe many of our presenters, which I think is important. I too am from an area outside of Toronto, in eastern Ontario. I wanted to ask you what your thoughts are with respect to the issue of just the whole principle of local autonomy. Would you agree that municipalities are best able to determine their own communities' best interests being close to the situation?

Ms Hutchison: Some municipalities. This is a bill that has to cover every municipality. My municipality? No. This is the same municipality that would have allowed someone to sever three lots in an area that could be 10 feet under water periodically. Without the kind of support and direction from the province to do this, no. But where a municipality prepares an official plan that is consistent with provincial policy, that covers those basic things that we have to look at and can provide that kind of economic stability where we're not going to be subsidizing bad planning, yes, and there are municipalities that can do that. Unfortunately, it's inconsistent.

Mr Gerretsen: I guess, since the others took one minute each, that means I'll have two minutes? Is that what you're saying?

Interjection: You're special.

Mr Gerretsen: The one-window approach I think most people would agree to, except with this proviso, and I just wanted your comment on it: If the Ministry of Municipal Affairs is going to have the lead in this and it's going to be the ministry through which everything is followed, do you have any concerns that somehow the views of some of the other ministries, let's say the Ministry of Environment or Natural Resources, in effect will be finessed so that there may not be any appeal forthcoming through one of these ministries that would have come if we didn't have the one-window approach?

Do you have comments on that? Do you have any concerns about that?

1100

Ms Hutchison: I am somebody who's been promoting one-window approach. In my area it's a long-distance call to call my neighbour. To have to go to 50 million different agencies to get an opinion—and one thing the conservation authorities have been trying to focus on is a one-window approach.

If the other ministries will provide the kind of support to Municipal Affairs, if Municipal Affairs is under an obligation to honour that approach, if we don't get a turf war between ministries, yes, I think the one-window approach is excellent. But if we can't ensure that there's going to be cooperation—but I've been fighting for that kind of one-window approach now for six years and I fully support it.

Mr Gerretsen: Well, I hope that you're right.

Ms Hutchison: But it will also be incumbent on those ministries to ensure that they rein in—

Mr Gerretsen: That their views be heard and also if they have a serious objection that they insist that the Minister of Municipal Affairs objects.

Ms Hutchison: Yes. I sat through a four-week OMB hearing that I totalled it up to about \$3 million or \$4 million and I was including all the government's costs, my costs, all the ministries—there were four ministries that were represented by counsel there. There really needed to be just one.

Mr Gerretsen: I agree.

Ms Churley: Most of the Ministry of Environment is disappearing in the course of deregulation and cuts in funding.

Mr James J. Bradley (St Catharines): What if the ministries disagree?

The Vice-Chair: Excuse me, if you don't mind, we're finished our session with this presenter. Thank you very much for coming.

Ms Hutchison: Thank you. I'll codify it into a two-page summary.

CONCERNED CITIZENS OF KING TOWNSHIP

The Vice-Chair: May we have the delegation of Concerned Citizens of King Township, please. Welcome. We would like you to introduce yourselves and remind you that we are restricted to a 25-minute time period.

Ms Margaret Coburn: Yes, I am Margaret Coburn and I'm chairman of the Concerned Citizens, Gillian Watt is my secretary and Elka Enola is a member of the executive and Elka will be presenting as well. We just learned yesterday that you have some preferences for the way we present and that you would like a summary and some recommendations so I have pulled together a little bit which may help you.

On page 2, paragraph 3, I will start off from there and say that during the two years of public consultation by the Sewell commission which resulted in the 1995 Planning Act, our group made five presentations, three to the commission and two to the government standing committee, about ideas that we felt would contribute to

the development of a new and better Planning Act in its final form. In its final form, imperfect as it may be, for the first time environmental issues were given a fighting chance to compete with economic issues. We didn't get everything we wanted in it but we hoped that this government would move it forward and make further improvements.

We agree that streamlining was important, but Bill 163 addressed this. There was no time really to see just how effective it was, but certainly it addressed that issue. We agree that municipalities should have more control where it's reasonable, but strong policies are essential for this, and Bill 163 addressed this.

In our view, Bill 20 nullifies this. We agree that affordable housing policy had its flaws when it was applied across the board. But what we think we have in Bill 20 is somewhat a case of throwing the baby out with the bathwater.

Our recommendations include that there be a longer period for discussion of this issue and that some meetings be held in rural communities, not all of them only in Toronto or in cities. It improves a lot if you can have some of these meetings out in the rural communities.

We need time to examine the potential impact of many of the proposals within this bill, which may or not be all right. We can't tell in the short time that we have. I'll try not to repeat any of this within the context of my presentation.

I'm speaking on behalf of the Concerned Citizens of King Township. We are an incorporated, 25-year-old, volunteer citizen organization working within and across King township to support and promote a planning policy for the township that will achieve an orderly pattern of development and protect and preserve its natural environmentally sensitive features. Today, we have a township of which we are proud and we look forward to being able to say that 20 years from now. We are, by the way, not allied with any political party.

Many people moved into King township deliberately because of the rural characteristics of the area, which are becoming more difficult to find so close to a major city. They have chosen to move to King in many cases to raise their families. Often the working member—or members as it is now—of the family work outside the municipality in an urban centre. They want their chosen community to continue to be a rural community, a community that maintains itself largely on volunteerism and active farm interests.

In two letters to the Minister of Municipal Affairs, dated October 4 and November 7, we expressed our deep concern about this government's proposal to—and I used the word “demolish,” which I believe was used in the throne speech—demolish Bill 163, which became the 1995 Planning Act. I would like to read excerpts from the replies we received from the minister, which I presume is the government position, which probably explains the nature of our presentation today:

“This government is committed to promoting economic recovery by cutting red tape and getting rid of obstacles to growth.”

“These amendments are intended to further give municipalities more control over local planning decisions

and ensure that environmental rules continue to be tough.”

If this bill is enacted, the first statement may indeed barrel ahead and cut red tape and get rid of obstacles to growth. But promote economic recovery? In our view, much more than this bill is needed to promote economic recovery. We believe in fact that it will contribute little but will create many difficulties that seem to be overlooked in the bill.

The second statement, that Bill 20 will ensure that environmental rules continue to be tough, is wishful thinking. It's true there are many environmental words in the bill, but without teeth they mean very little. Good planning should not be sacrificed in the name of some vague goal of achieving economic growth. We need good planning to help us achieve economic growth, not one or the other. Good planning will do much to achieve it.

During the two years of public consultation by the Sewell commission—and I did mention that, these five presentations to the various committees that were meeting. The changes that are now being proposed are intended, and I quote from the minister's letter of December 4, “to speed up the process, give municipalities more flexibility and strike a better balance between economic and environmental considerations.”

It is our view that more flexibility will not speed things up. On the contrary, it encourages conflicts and unnecessary argument and will in fact waste time, nor will it protect economic or environmental interests.

What will speed the process are rules that are clear, fair and firm—and I think you've heard some of that today from other people—so that everyone understands that no means no and yes means yes to the greatest possible degree. This requires clarity in wording in the act and strong provincial policies. Bill 20 will take us back to the days of uncertainty and consequent delays and animosities. The uncertainties will exist for everyone, developers, potential buyers and long-time residents.

It is our view that the statement in the 1995 Planning Act that planning decisions “shall be consistent with” provincial policies greatly improves the process for good planning decisions to be made. Reverting back to the totally ineffective wording “shall have regard to” makes a mockery of the stated intentions of this government.

In reality, it relegates the policies to the status of guidelines. Decision-makers will be free to do whatever they want as long as they glance at the policies, if Bill 20 passes as it stands. Politics will have the strongest influence on the decision-makers, not good planning, just as it was prior to the passing of Bill 163. If the intent is that building under vague planning limits will effect economic growth, where is the evidence?

I'd like to ask Elka to carry on from there.

1110

Mrs Elka Enola: I think that I object to the economic considerations in the provincial policy statement of December 1995 relating to Bill 20, but I can't be certain because I can't crawl into the brains of the authors of the document in order to find out what concepts they intended whenever they refer to “economic growth” or “economic development” or other terms relating to economics. Furthermore, in spite of the pages and pages of defini-

tions, there is not a single definition relating to economic terminology. This is extremely important because repeatedly and consistently the document gives primacy to economic concerns over all others, including those relating to prime agricultural land and to the environment.

As a holder of an honours degree in economics, I'm most clearly aware of the unscientific nature of economics. The essence of a scientific discipline is accurate predictability, something which is notoriously absent in the field of economics. You put four economists into one room and you will likely get five interpretations of a given situation and six predictions.

We all know of how statistics can and are manipulated to produce the desired outcome, so it is only prudent that intelligent citizens be most concerned about policies and programs where significant choices are based on unspecified statistical evidence.

Repeatedly, economic growth and economic benefits are given precedence over other factors. Since there is no definition provided, I must presume that the definitions that will be applied will be (a) the traditional ones commonly used in the past and (b) those consistent with the other economically related practices and policies of the current government. In other words, a policy whereby a variation of “What's good for General Motors is good for the country” will apply.

The traditional thinking was that if companies prospered and made large profits and incomes for the shareholders and the senior staff and directors, then the company would also be providing a good income for employees and everybody would be better off. This was true in the 1960s and the 1970s and the 1980s, but it is most definitely not true now.

In the past, when traditional measurements indicated economic growth, employment was high. Not today. While we are getting reports of economic gains—and we are getting these reports—we are not getting reports of reduced unemployment. While we are getting reports of economic growth, people are cashing in their RRSPs in much greater numbers than before. While we are getting reports of economic growth, people are being laid off without any warning; others are having jobs reduced to part time. Everywhere among the working people there is great insecurity. Permitting the use of replacement workers has greatly reduced the effectiveness of unions and thus added further to the insecurity of workers.

People who are insecure financially do not spend money readily. When virtually the whole population is hesitant to spend money, no long-term economic benefit is possible, no matter how one defines it. When cost-effective development, whatever that means, is permitted on prime agricultural land for any reason whatsoever, we are dealing with a situation of gross irresponsibility. The policy statement allows for such development “where there is no reasonable alternative.” I suggest to you that there is always a reasonable alternative.

Prime agricultural land is irreplaceable. In any case, it should never be replaced with urban development. Let's face it: You can build a house anywhere, but you can't find prime agricultural land everywhere.

Unbelievably, “extraction of minerals and petroleum resources” is permitted in prime agricultural areas

"provided that the site is rehabilitated." Again, the primacy of company profits over all else.

Firstly, the prime agricultural land will be removed from production for many years. Secondly, I categorically do not believe that a prime farming area that has been used as an oilfield for 20 years can be returned to its former state at the end of the time.

When the only important policy measurement is, how much money will the company make? we have a socioeconomic disaster of major proportions in the making. The primacy of economic benefits as it appears in the policy statement is a hazard to the land and to the people of Ontario.

Mrs Coburn: Some additional observations—and there are others we could have made, but these we would like to make: To illustrate our concerns about vagueness in wording, we deplore such expressions as "promote" cost-effective development patterns, "encourage" cooperation and coordination and "strengthen" the role of rural areas. I believe these are known as encouragement statements, but if they aren't backed by operative statements that say how and what is going to happen, they are really very bland words.

We would like to see clear definitions for such words as "ecosystem," "environmental assessment process," "environmental study," "impact study," "intensification," "rural areas," particularly "minor variance," "significant" and "provincial interest," to name a few.

There is no longer a requirement for a public meeting re a proposed plan of subdivision or for severance, and there is no reference to support for curbing urban sprawl, although I had thought this government was in favour of that. Public discussion is limited in time and location, as I have said.

In general, we have consistently throughout our presentations re Bill 163, Bill 26 and today re Bill 20, expressed concern that terminology should be clear, definite and unequivocal, such that there's no room for doubt about the government's intentions regarding planning in this province. It seems to us to be important to point out that the objectives of the developers are not the same as the objectives of government. And government needs to make its intentions clear in order to avoid unnecessary and costly conflicts over what may and may not occur in land use planning in this province. Regretfully, this bill represents a large step backwards in this regard.

In conclusion, it really is devastating to realize that the democratic process condones the cost of an incredible number of hours and money spent by politicians, professionals and unpaid citizens to create a piece of legislation that will clarify and improve how our land will be developed, only to have a new set of players sweep it all away within a few months of coming to power. We do suspect that few of you took part in the previous process and probably fewer still have looked at any of the submissions that were made over that two-year period. Yet it appears the government believes it knows that it all should be undone. We earnestly request that you take a little longer to study the direction in which this bill will take you and that you extend the hearings for a few weeks to allow for more people to comment. Thank you.

The Vice-Chair: Thank you. We do have about 13 minutes, but before we enter into that time, I'd just like

to make one point. I'm not sure whether or not you're aware that the hearing process is three weeks long. Everybody who asked to be on the agenda has been accommodated on the agenda and in fact the hearings are travelling throughout the province. We'll be going to Sudbury, Cobourg, Ottawa, Hamilton, London. I don't know if you are aware of that or not.

Mrs Coburn: I did hear that originally and then I understood that the meetings were to be held here. I heard that later and maybe that's incorrect.

The Vice-Chair: I'm just clarifying a point for you. It's for information purposes.

Mrs Coburn: Thank you.

The Vice-Chair: We do have approximately three minutes each again, starting with the government side. Dr Galt.

Mr Gerretsen: Excuse me, three minutes? If we have 13 minutes, that's close to at least four minutes each.

The Vice-Chair: Sorry, we are to finish at 11:31.

Mr Gerretsen: If you have 13 minutes, and presumably you do, your statement, that's four minutes each.

The Vice-Chair: Excuse me. I stand to be corrected on the math. I have recorded here we started at 11:06 to conclude at 11:31, and I certainly would be pleased to take out the minute or so that I used. So I'm sorry. We are down to nine minutes, and that's what I said, I think.

Mr Gerretsen: No, you said 13 minutes.

The Vice-Chair: Sorry about that. So if we go with three minutes each, please. Dr Galt.

Mr Galt: Thanks for the presentation. The first comments from the chair were part of what I was going to comment to you as well, that Cobourg is indeed very rural and outside of Toronto.

I'm interested in your comments on concerns over environmental protection, and I gather you're referring to general protection of wetlands and lands around those kinds of areas. We too, by the way, are concerned about that kind of protection.

One of the things I was repeatedly hearing during the last election was that farmers in particular and land owners were having their lands confiscated by regulation without ever being notified, that they were losing the rights to use these lands as they had previously, as they had purchased, and there was nothing on deeds, etc.

1120

Yes, there's no question we need to be protecting this. But who's responsible? Is it the farmer who has to give his or her lands to the province for the use of the public in general and lose the value that they previously had? Is it environmental groups? Is it the province of Ontario? Is it municipalities? I think it's a basic question we have to answer because I don't think it's fair. The farmers are struggling enough as is without taking more from them. Do you have any thoughts in that general area?

Mrs Coburn: I think it is a big problem. But it seems to me in European countries they have solved this problem somehow by maintaining that rural lands will be rural lands, or agricultural lands will be agricultural lands. The idea is that the farmer doesn't give something, but the sale of farms will be made from a farmer to a farmer.

If in fact the rules are there, then somebody who does want to farm, and there are young people in this country who do want to farm, knows that if they go to a certain

area they may be able to find a farm there because agricultural land is there. As it is now, there's so much uncertainty of it that I know that young people are having difficulty knowing about this and also they're competing in price with a farmer who may be able to say: "Well, I've got an offer from a developer at this much. If you want to pay me a little more, I'll take it." And that's really unfair to the young people.

So we feel if there's certainty that agricultural lands are clearly defined as such and that's what they are—we do need them—this will make life easier for the farmers and the younger people coming along.

Mr Galt: And as you develop and come up—

The Vice-Chair: Thank you, Dr Galt. I'm sorry to interrupt.

Mrs Coburn: I'm sorry; I only half answered your question.

The Vice-Chair: Mr Gerretsen.

Mr Gerretsen: Thank you very much. And I totally agree with you. Even though there may be two weeks of hearings—I think in fact it's two weeks and two days—there's a great, big difference, and this government simply doesn't understand the difference, between being allowed to make a presentation and being given two or three minutes to respond to it in this kind of dialogue and having clear-cut consultation. There is a huge difference with that. I think anybody who's been involved at any other level of government or school boards full well understands that what makes those situations work more than anything else is that consultation is more than just a three-minute dialogue on a particular issue, particularly with a bill that deals with so much as here. So I thought that your point was well made. This is not effective consultation.

Mrs Coburn: Not like the Sewell commission consultation program that was on before.

Mr Gerretsen: That's correct. I wonder if you could tell us in just plain, ordinary language—and I realize you're not professional planners and what have you—why you would want to have a public hearing on a subdivision development. I think this isn't being understood by a lot of people. Presumably you've got a piece of land that is already zoned properly etc. So now what the government is suggesting is, let's take the public hearing aspect away because it's already zoned; not too much can be done about it anyway. Why would you want public input in a subdivision plan? I know why, but I'd like you to say it for the committee.

Mrs Coburn: Well, in a rural area, which we come from, a subdivision coming in makes a profound difference to the area in every way: numbers of people, the institutions that we have to support them. The nature of the land that's there is not always understood at all or examined by the developer who is coming in. We feel that the people in the area, who have often worked very hard to get the plan that exists in their own community, know a good deal more about the issue than the developer coming in.

Mrs Enola: I'd like to just add something from a personal point of view. I was born in Montreal. I lived most of my life there. I lived in London, England, in Toronto. I'm essentially big-city. I moved out just west

of Schomberg about seven years ago and you cannot drag me away from there now.

The rural areas are divided by side roads and concessions. Between Concession 11 and 12, where I live, along the 19 Side Road on the north side, where I am, all the properties have been subdivided into 11, 10, 14 acres. They had been originally two big farms, I believe. On the other side of the road, I face a huge farm and then some other equal 10-or-12-acre things.

We chose that location because next to us to the north and to the west and to the south are good agricultural lands with operating farms. Indeed, just north of us is prime agricultural land that's classified number one land. So we thought: "Okay, if we move here, we are safe. We are not going to get a subdivision. We are not going to get a McDonald's. We're not going to get any of that stuff. This is going to stay rural." When I look through here and I read this, I get worried, because we're looking at the ambiguity; that's why we are concerned about having no statement. Suppose somebody decides: "Hey, this is residential. We can do infilling. We can take into the farm across, into the area across, and we can now put in a big subdivision." That's not what I moved out to the country for. That's what I left.

So again, this is the perception why you have to have a public hearing when there are cases like this. I read this from two points of view. I read this from me living there, and I read this as a developer saying: "Hey, this is residential. They're not farming." None of us are farming. We're living out there watching the grass grow, watching the leaves. So this is the concern.

Ms Churley: Your presentation is what, to me, real common sense is all about, and I hope the government takes note of some of the things you say. What essentially the Minister of Municipal Affairs and Housing is saying is: "Trust me; I know best. I don't really need to consult with the people of Ontario." This is a very complex area in municipal planning, and as you stated, our government with the Sewell commission spent two years and then extensive hearings across the province after that from the government. Not everybody was happy with it, and we couldn't come to a consensus at the end of day, but people hammered away and tried to reach as close as possible.

But you know, this is coming from a minister, the Minister of Municipal Affairs and Housing, who didn't know the contents of his part in Bill 26 and had to make amendments after he said he'd quit if it turned out he was wrong. Well, he was wrong and he's still with us. But there are real concerns around that when a government with this kind of arrogance says, "Trust me; I know best."

I just want to tell you as well that I as the critic for Environment and Energy have some real concerns around the fact that the Ministry of Environment has been severely cut back in terms of money, and deregulation going on, and also the Ministry of Natural Resources. There's real concern around the Minister of Municipal Affairs and Housing being the only one who can appeal, and we haven't been guaranteed that these other ministries will be able to have a say. The other problem is, of course, with so much staff reduction, will the public have the benefit of the knowledge of the Minister of Environ-

ment and Energy and Natural Resources? So those are just some of the concerns that we have in terms of the bill going through in the state it is. I don't know if you have time to comment or not, but probably not.

Mrs Coburn: That's one of the things that I think we should be discussing, because I'm not at all sure that a one-window process really is the answer. I think it should be explored very thoroughly, because it could in fact do something quite different: It could eliminate the impacts from the other ministries and put them too far distant from the actual decision-making. So I would like to see more discussion on that, and we would be willing to be a part of it and also to listen.

The Vice-Chair: I thank you for your comments and I thank you for coming this morning.

1130

CITIZENS FOR AFFORDABLE HOUSING, YORK REGION

The Vice-Chair: I would ask that the Citizens for Affordable Housing for York Region come forward. Good morning, sir. Welcome to our hearing process.

Mr Peter Formica: I'm Peter Formica, the coordinator of Citizens for Affordable Housing in York region. Today I would like to be speaking on Bill 20, the section where they're repealing the accessory-units-in-houses legislation, just a small portion of the bill.

Mr Chairman and members of the task force, for the past eight years the affordable housing committee of York region has been lobbying and advocating for the provision of more affordable housing choices. We have supported the implementation of Bill 120, An Act to amend certain statutes concerning residential property. We believed its implementation would deal constructively with the many affordable accessory units in the region, ensuring that future units would be safe and built to the Ontario Building Code.

Bill 120 had many benefits, from housing people and boosting the local economy by the sale of building supplies and the employment of building trades at a time when they desperately needed work to assisting municipal compliance with the 1989 land use planning policy statement. The legislation also dealt with approximately 100,000 units in Ontario that were illegal through zoning and worked towards ensuring all apartments in houses are safe and built to code.

Many municipalities and housing groups in York region have worked hard to build affordable social housing units. However, there still are many people without adequate and affordable housing. Most of our non-profit housing has been directed to seniors and families. Now our existing government is cancelling the building of any additional units through the passing of Bill 20. Apartments in houses help provide housing for non-seniors and young couples. This sector of the housing problem has been sadly neglected for too long.

The Hemson report, which was a housing needs study for the regional municipality of York, states that York region would require 1,000 assisted units per year for the next five years, for a total of 5,000 units. With the cancellation of all government housing programs, apartments in houses will have to fill all these needs or the

problems associated with low housing vacancies in York region will increase substantially.

The CMHC report dated April 1995 stated that York region has a vacancy rate of 0.8%; that's eight in 1,000. With the new proposed changes, the percentage will only decrease. According to Stats Canada, York region's population has increased from 505,000 in 1991 to 577,000 in 1995, a net increase of 72,000 people. York region's share of the greater Toronto area's yearly population increase was: in 1991-92, 20,000; 1992-93, 19,300; 1993-94, 14,900.

Tenants in the lower incomes are being hit from three directions, and careful consideration has to be given to the implications of any new government policies and how they would affect them. For example:

(1) A 21.6% reduction in welfare payments is driving more people to seek less expensive accommodation.

(2) The cancellation of social housing projects has stopped the construction of affordable rental units in York region.

(3) A change in policy on accessory apartment legislation would have the effect of less private affordable rentals and would therefore be the final door closing on them.

A survey of employers was taken by the affordable housing committee in York region in March 1990 in the city of Vaughan. Sixty employers who had a payroll of 25 or more, representing a wide range of businesses and industries, were asked if they were having difficulty recruiting staff and if they perceived housing costs in the area to be a contributing factor. They were also asked if they would be in favour of more affordable housing options in Vaughan.

Of the 15 surveys returned, 100% reported difficulty with recruitment and all favoured more affordable housing in town. Of particular concern was the lack of rental accommodation for employees earning less than \$26,000 annually, but several indicated problems recruiting even at the higher wage levels of up to \$55,000.

A survey taken in the town of Markham in 1991 had similar results. A total of 58 companies in Markham returned questionnaires; 66% of the respondents were still having difficulty recruiting personnel, and the majority of these perceived that the higher cost of housing in Markham contributes to this problem. A full 83% of employers who replied were in favour of the development of more affordable housing.

An affordable rental stock can be viewed as an economic asset that helps attract and retain a diverse workforce essential for the various industries in York region. Employers in the retail service and shopping, hospitality, office, manufacturing, transportation and institutional industries are some of the employers who depend on a low-cost labour force. A low-cost labour force depends on low-cost rental units for its housing needs.

In good economic times, employers have a problem recruiting employees when the affordable rental stock is in short supply. Therefore, it is essential that our supply of units be increased, not decreased. An accessory apartment in a house tends to be less expensive than the same unit in an apartment building, making them more affordable. With Bill 120 in effect, competition between

landlords helped keep prices down and the units in a better state of repair. If the creation of accessory apartments stops, prices will rise and more people will have difficulty finding suitable accommodation.

The existing prices at our Housing Help Centre in Aurora are as follows: The rooms range from \$350 a month to \$400—that's where you just share a kitchen; the bachelors, which is a separate apartment with kitchen facilities, are from \$450 to \$550 a month; the one-bedrooms, \$525 to \$725; two-bedrooms, \$750 to \$850; three-bedrooms are from \$900 to about \$1,025.

There's a special note here: Since the 21.6% reduction in welfare payments, the price of rooms has decreased, and my schedule reflects that, approximately \$25 to \$50 monthly. Landlords who rent rooms depend on the monthly income to meet their expenses, so they have to rent their rooms regardless.

Another group that benefits from the creation of apartments is the first-time home buyers trying to get into the housing market. Some banks, trust companies and private mortgagors will accept the income from legal apartments to help the applicants qualify for mortgages. Seniors benefit financially from the income of apartments, as well as arranged for assistance of property maintenance by their tenants. Retired homeowners who spend many months away from their property might use the tenants of their apartments to assure their home is secure while they are away. Many insurance companies require changes to premiums when residents vacate properties for long periods of time.

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When the task force was conducting hearings on Bill 120, arguments by municipalities opposed to the bill were to the effect that the neighbourhoods would be overrun with rental units. A phone call by myself last Friday, February 9, 1996, had these results regarding the number of accessory units applied for since July 1995 under the new provisions of Bill 120: The Newmarket building department had 10 applications, the Newmarket fire department had 30 units under inspection; the Markham building department had 15 applications, Markham fire department has 22 units under inspection; Aurora building department has six units; Whitchurch-Stouffville has only two units; Richmond Hill building department had 10 units; Vaughan building department has two units and the Vaughan fire department has 60 units under inspection.

The accessory units applied for is very low when you consider the population of York region is 572,000 people. The existing bill is also encouraging tenants who live in substandard apartments an opportunity to request fire department inspection without the fear of eviction from an illegal apartment. The bill also encourages that landlords bring their units up to standards.

Conclusion: The apartments-in-houses legislation should not be changed until a full impact study is done on its implications. Municipalities have overreacted on their concerns on the impact of accessory units. To proceed without fully understanding the impact that Bill 20 has on the employers and the economic effect it would have on the region could have negative results. Our employer study in 1990 and 1991 serves as an indicator of employers having recruitment problems due to the lack of affordable housing for their staff. If the province

proceeds with the passing of this bill, we would strongly urge you change the enforcement date to give landlords who have proceeded in good faith time to complete their renovations. It is customary on building code changes to give trades an opportunity, with adequate warning, to complete their building plans and apply for their building permits.

I'd like to thank the committee for the opportunity of speaking to them today, and if there are any questions, I'll gladly answer them.

Mr Gerretsen: It's an excellent presentation, sir, and I think it's kind of ironic that we're dealing in the same bill with committee of adjustment minor variance issues that have been loosened up, where somebody could come in and in effect build monster homes in neighbourhoods that have relatively small homes right now, and yet we're also saying that we're taking away rights that property owners right now have to create second units in their buildings, which wouldn't change the residential nature of a neighbourhood at all. It's kind of ironic that we're sort of allowing the one, which would be much more of a—well, you'd certainly notice it a lot more from the outside than in the other case, where there may not be the same effects at all.

I'm very much interested in the statistics that you've provided us, because 157 units having been applied for in the last seven or eight months in an area that has over 570,000 people certainly isn't a lot.

Mr Formica: Actually, there's quite a bit less, because the building department applications are applications for approval. The applications to the fire department are ones that are already existing and they are in an effort to bring them up to standards.

Mr Gerretsen: I'm glad you pointed that out, sir. Just so we can put some further credence to these numbers, did you go to all of the various approval departments within York region or are there areas that you have excluded? In other words, did you go to all the fire departments and all the building departments within the region?

Mr Formica: No, I did not. Every one of these ones here I personally phoned myself. I did not phone Georgina or the ones further north, East Gwillimbury, because their rates would be very low as well.

Mr Gerretsen: Would be very low, because they're much smaller municipalities than the ones you phoned.

Mr Formica: We have 13 municipalities within York region. Of particular concern, though, is that when I spoke to the Vaughan fire department, it has 60 units under investigation now: 80% of them were from tenants who complained that they wanted their unit updated and inspected; the other 20% came from people in the neighbourhood who had complained. There wasn't one application from the landlords themselves. In other words, the last bill, the new restrictions, are forcing people to update their units and bring them up to the code standards. That's why there will always be a discrepancy between the inspections and the applications.

The Vice-Chair: Thank you. I appreciate that. Third party?

Mr Hampton: You make some arguments, and I simply want to go over them again. The evidence that you've put together here indicates that in fact the market

for affordable rental units is increasing dramatically in your part of York region.

Mr Formica: That's correct.

Mr Hampton: And yet the changes in the law that this bill will make can have the effect of dramatically reducing the number of apartments that might be legally available in existing homes or existing dwellings. Is that right?

Mr Formica: If the act is changed and the municipalities do not give the people the right to create a basement apartment, or an accessory unit wherever it is, then it will have the effect of putting less affordable housing units on the market. It will also handicap an empty-nester who has a big home who prefers to have a little income.

Mr Hampton: In your experience, will people put what will then be illegal apartments on the market anyway? In other words, will people rent them out even though they're illegal?

Mr Formica: Well, before the last act came into effect, we had over 100,000 units across Ontario.

Mr Hampton: So what the government's going to be doing is it's going to be creating, or contributing to, a situation where in effect there will be a lot of unregulated and potentially unsafe apartment units.

Mr Formica: If the apartment is illegal, then the tenant in the unit cannot complain to the fire department because they stand to get evicted. As long as the units are legal, the tenant can complain to the authorities and insist they be brought up to standard and therefore they can't be evicted. They won't get evicted because of it.

Mr Hampton: What do you think's going to be the outcome then? I mean, I know how the market works. I know, for example, that you can prohibit the sale of some items, but if there's a public need for them, and there's a public need for housing, then those goods, in this case illegal apartments, will go on the market in any case. If you've got all kinds of apartments around that are not subject to fire department inspection, are not subject to building code inspection, that fall far below the safety requirements, what do you think's going to happen, if the government puts people in that situation?

Mr Formica: Regardless, if a person needs a home, they will not live on the street. They will live in any apartments that are available and it is normal they will try to live in the best one. I've seen people come in and take a unit until they can find a better one. But if there are less units out there, they don't have the choice and the prices will rise. Already, on my three-bedroom units, they've increased \$70 within the past couple of months.

Mr Hampton: What do you think will happen in terms of people's health and safety in those illegal units?

Mr Formica: It's not a good situation. A lot of people don't like living in basement apartments. If they have asthma or other conditions, or rheumatism, some of them just cannot live in basement apartments.

Mr Hampton: And what about the fire protection issues?

Mr Formica: The fire protection issues, you have to make sure it complies with the building code. Any basement apartment, to me, can comply with the fire codes if it's built properly. It is not that expensive to put in a fire door at the top of the stairs and a smoke detector. I don't agree that the units should not comply with

the building code or with the fire code, because you can comply and you can comply cheaply.

Mr Hampton: Yet all of these are going to fall outside any regulatory or inspection measures.

Mr Formica: It can happen.

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Mr Pettit: I took the liberty last night to speak to a number of my neighbours in Hamilton, Hamilton Mountain, that is, in single-family neighbourhoods, and the consensus seemed to be that they're not in favour of the government legislating second-unit housing. Having said that, do you not feel that the municipalities are best able to determine what is in the best interests of their neighbourhoods as opposed to the province?

Mr Formica: If you came back and told me in the municipality that the planners were regulating where they go, I would agree with you, but if it's the municipal politicians who's doing the legislating where they're going to go, I can't agree, because what they have a tendency to do is group them in certain parts of town and they don't spread it evenly across the whole town for the community.

They put them in sections of town that are less desirable, and if a person has a house with 3,000 or 4,000 square feet and their children have gone off to college, then it's very difficult for the municipality to say, "Okay, you can have an accessory apartment," because it's in a higher-class neighbourhood. I get them in higher-class neighbourhoods and one of the restrictions was that one of the homeowners said, "Yes, I will rent you out an apartment but you must park in the garage because I don't want my neighbours to know I'm renting."

Mr Pettit: Do you think municipalities should be able to register the basement apartments?

Mr Formica: I would be in favour of that if that means we're going to keep accessory units. Let them register them; let them get them inspected. In planning, if you create areas, which we do now, industrial-commercial, residential, don't say it's residential single family.

If my neighbour next door has five people living in his house and I have two, then I should have the right to have two more people living in my house, even though they're not related to me. If you're going to legislate it planning-wise, then what you should be legislating—I'm not recommending—is that in a house you can have so many people living per so many square feet. That would be a more just type of planning.

Mr Jerry J. Ouellette (Oshawa): Just to follow up on that, don't you think, though, that if a municipality recognizes the needs for affordable housing to support low-income jobs, they would look for areas to initiate that through the political process, because you said the politicians would probably not support that.

Mr Formica: We had a negative effect in 1990 and 1991 when we did our needs study, when the employers in Vaughan were begging to have more units created and the municipality of Vaughan was totally against affordable housing.

Mr Ouellette: That seems overly counterproductive to the community.

Mr Formica: It was counterproductive because the employers themselves were saying, "We can't hire

people." Especially in the manufacturing area, if they're making under \$30,000, \$25,000 a year, they can't afford the high price of housing. They need those bachelors and one-bedroom apartments to live in. I presume the economy of this country and Ontario is going to change, and when it does change, we don't want to put the employers in the position where they can't get employees again because of housing.

Mr Ouellette: You think the municipality should not have the option of making that decision.

Mr Formica: You should have a right to have accessory units within certain guidelines.

The Vice-Chair: Thank you very much for attending this morning.

Mr Hampton: Madam Chair, I'd like to present a motion at this time, if that's all right.

The Vice-Chair: That's fine.

Mr Hampton: We can debate it at some later point, but this is the essential text of it:

Whereas Bill 20 has a significant effect on the natural environment and our natural resources in Ontario; and

Whereas the Mike Harris government has taken many measures to dismantle environmental safeguards that protect our environment and health during the last eight months; and

Whereas the minister responsible for the protection of our natural environment and our natural resources is not scheduled to come before this committee;

I move that this committee formally request the Minister of Natural Resources to appear before this committee to answer questions relating to the effect of the Planning Act amendments, Bill 20, on the natural environment, our natural resources and the people of the province of Ontario.

Ms Churley: I'll second that motion.

The Vice-Chair: There's just a mover required, but thank you very much. Is it the wish of the committee to deal with this at this time?

Ms Churley: If I may, I presented a motion earlier, that we could deal with it at lunchtime. However, Mr Hardeman, I don't know if you're ready for us to deal with it now, or would you rather wait till the end of the day?

Mr Gerretsen: I thought it was the end of the day.

Mr Hardeman: I have no objection to dealing with the motion now, but I think we did have unanimous consent of the three parties that we would not deal with it till the end of the day.

Ms Churley: So we'll deal with the two of them at the end of the day?

Mr Hardeman: The Chair may want to rule on it, but I suggest they are similar enough that dealing with one resolution would put the other one out of order, but that's the Chair's decision.

The Vice-Chair: I would ask, in dealing with the motion that has been put on the floor at the time, whether or not we would like to deal with it now. That's really what the question is, whether we'd like to deal with this one right now or whether we'd like to delay it and deal with both of them at the close of session today.

Mr Hampton: I'd like to ask in connection with that, is Barbara Jamieson here?

Mrs Barbara Jamieson: Yes, I am.

Mr Hampton: Let's hear from Barbara Jamieson and then we can deal with the Minister of Natural Resources motion, if that's all right.

The Vice-Chair: Before we deal with the delegation, I would like to finish off this motion. I understand that what Mr Hampton has just recommended needs unanimous consent. I would like to know if we do have unanimous consent to deal with this after this next delegation or not, or whether we should be leaving it till the end of the day and deal with them together.

I'll deal with the motion that's on the table right now and what it requires to proceed past this point is unanimous consent to either deal with it at the end of the next delegation or at the end of the day. Ms Churley has indicated there seems to be consensus to delay the other one till the end of the day.

Ms Churley: Mr Hardeman and I discussed that. My preference is to deal with them both at the same time. It just makes sense, given the motions are very similar.

Mr Hardeman: We would support unanimous consent to deal with them both at the end of the day.

The Vice-Chair: Is that agreed? Thank you.

BARBARA JAMIESON

The Vice-Chair: Mrs Jamieson, I apologize for the delay and I know we're a little bit behind. We'll try and make sure we move through this in a fair way.

Mrs Jamieson: First I'd like to thank the Chairperson and certainly the members of the committee for having me today.

I'd like to commence by stating that I support accessory apartments with health and safety standards in place. Before Bill 120 was passed, municipal zoning bylaws discriminated against the economically disadvantaged individual and householders. Without standards, families and the children of these families were at risk.

Stated in the 1990 report by the Advisory Committee on Children's Services titled Children First, "All children have fundamental entitlement to necessary health care and treatment and adequate nutrition and housing." One of this committee's statements of goals was, "Laws that affect children directly or indirectly must be written and amended to express and give force to their entitlements."

Municipalities allowed accessory apartments to grow in numbers without health and safety standards in place, ignoring this important issue. No attention was paid to the United Nations report on the world's children which made the case that children should have first call on society's concerns and capacities and that children should be able to depend on that commitment in good times and bad.

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Children and their families need stability and an environment which is safe and healthy. If the power of control is given back into the hands of the municipalities, you put these families in jeopardy as they were in the past.

Our present vacancy rate is low and inevitably the greedy will exploit renters. Before Bill 120, the municipalities held on to antiquated bylaws, keeping tenants at the mercy of disreputable landlords who chose to rent basement apartments with no health and safety standards

even considered, bylaws that were ineffective and whose only design seemed to be to keep many of the population in fear: fear, because some households such as young families and seniors needed to rent. People who normally were honest, law-abiding citizens were now breaking the law.

A fact sheet produced in October 1992 by the Ministry of Municipal Affairs and the Ministry of Housing stated that there were approximately 100,000 apartments in houses in Ontario. Previous governments directed municipalities through the 1989 Land Use Planning for Housing policy statement to eliminate excessive zoning standards to allow apartments in houses in residential areas. Very few municipalities complied with the policy, but basement apartments continued to grow in numbers.

There was a need for more affordable housing choices. Scarborough city, where I reside, did a study funded 80% by the province which indicated there were at least 15,000 apartments in houses in Scarborough. I just remind you, that was when they were illegal. One method municipalities used to fight legislation of accessory apartments and having to put standards in place was to claim there was a parking problem.

From a personal point, families like mine that don't have basement apartments encountered the problem because our children became old enough to own cars. A Metropolitan Toronto study found that one- or two-bedroom converted dwelling units had fewer cars than a one- or two-bedroom non-converted dwelling unit.

Municipalities knew that ignoring their very existence was not going to make them go away.

Please let us not return to the time when home owners and tenants lived under the jurisdiction of irresponsible municipalities that didn't act responsibly when for many years the opportunity was there to do so.

Let us not forget, for many families renting out can assist them in acquiring a home or even for some to acquire the ability to stay in their homes, and for renters, providing relatively affordable housing choices. I know and accept the fact that government-subsidized housing simply cannot meet the needs of many of your constituents. Renters should have the choice to live closer to special schools, parks, shopping malls and other services they may require.

Ontario's population growth rate is high, many settling in the Metro area. Let us be careful not to put into place barriers which will prevent a mix of people and housing in communities to occur.

I am sure we all recognize that poor quality housing is one of the causes for family breakdown. A family's housing situation is an important factor for the wellbeing of children. You and I must care for our children and our children's children. The present government has appealed to us to take responsibility for our relatives, our friends and our neighbours, to give them a helping hand. On the issue of accessory apartments, past experience shows us that municipalities lacked this initiative.

Leave Bill 120 intact. Don't provide municipalities the power to revert back to where "love thy neighbour" was not a priority, when accessory apartments under their jurisdiction continued to grow, and health and safety standards were ignored.

The Vice-Chair: Thank you very much. If you'd like, we'd like to get into a bit of a question and answer period. We do have 19 minutes left, so that's over six minutes per party.

Mr Hampton: You've hit on the nub of the issue, so I want to go over that with you. The fact of the matter is—and some of the people in the government caucus I think want to deny this—that municipalities have had the opportunity in the past to properly ensure that health and safety standards—fire safety, electrical safety and certainly health issues—were observed. They've certainly had the opportunity to deal with this area appropriately and they have chosen not to.

Mrs Jamieson: That's the truth.

Mr Hampton: So when the province intervened here we had a situation, as you point out, where there were over, as I understand it, 100,000 illegal apartments and that none of these apartments had, in effect, received the kind of electrical or fire or other safety inspections that they ought to have had. So what do you say about simply letting this go back to municipalities? What do you think the effect will be of simply letting this go back to municipalities?

Mrs Jamieson: I think it's obvious. I mean, 100,000 occurred when they were illegal. We're going to get the same again if people need them and we're not going to have the health and safety standards in place. I can't see that people who are in need are going to change that. It's going to happen. What I say is that a lot of these citizens are normally very law-abiding citizens. You're now putting them into a position where they have to be going against the law. They're going to do it anyway. I'd rather see the health and safety standards in place.

Mr Hampton: You were here when the previous presenter, Mr Formica, made his presentation.

Mrs Jamieson: That's correct, I was.

Mr Hampton: He quoted a lot of evidence that indicates that in fact the need for and the demand for these types of apartments in dwelling houses is going to increase, and in fact going to increase dramatically. Is that your sense too?

Mrs Jamieson: I think so. I look at even my own personal situation where, for instance, there's a good chance that my daughter, who's a wildlife biologist and is on contract positions—I can see her coming home again. I assume that you're aware that when the apartments were illegal, I couldn't have her live in my basement, even if I put in any kind of separate facilities. I don't have a basement apartment now, but if she needs to come back and live there, I'm going to have to put something else in there.

I think that's the problem for a lot of families now: There are a lot of children or a lot of family who are coming back. I can recall, when they were illegal, there was a gentleman in Barrie who was quite harassed by the municipality, where he had his mother living in a basement apartment and the municipality went after him and in actual fact he had to evict her and had to put her into his part of the house. They fined him heavily and he had to pay. These are the kinds of horrendous things that were happening when they were illegal. I see that continuing.

I even look at Scarborough. I have to tell you that when they did the study, which the province funded 80% of, they got the results of the study, the mayor at that time made some bizarre statement to say that one third of the residents wanted basement apartments, one third wanted them legalized and one third didn't and that meant that they didn't want them. Even some of her colleagues had a problem with those kinds of figures. It made you wonder why she was even making that kind of a statement.

On top of that, nine of the councillors in Scarborough voted to not inform their wards that they were going to have a public meeting to discuss the results of those surveys. I went around knocking on doors in my area, because we were one of the wards not to be informed, telling them that whether they were for basement apartments or against them, they had the right to go to the public meeting and hear what the results of that survey were. I was phoned and harassed by my local councillor and warned that many of the colleagues were going to go after me because I had done this.

This kind of irresponsibility in my part—if I'd had a tape, I would have loved to tape it, but it wasn't possible. There was another break of confidence which I won't go into, but it was certainly to do with Metro, with this same local councillor whom they had informed about my filling out an anonymous survey. I, fortunately, got the copy of that letter, so if I ever had to proceed with any harassment—could you imagine what it would be like for me if I ever decided to put in a basement apartment, what would happen? Because that same councillor is still there.

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I saw so much irresponsibility on behalf of the municipality, which knew they were there. They even had trouble with the consultant that they hired; I must admit that the province recommended him, but they hired him. There was this firing and bringing him back and letting him go, and he finally quit, because the study didn't read the way they wanted it to be. Those are the dangers I have.

I am just recently retired and a former employee of the Catholic Children's Aid Society, and worked in Scarborough for 20 years. I went and visited apartments that you wouldn't have a dog live in, but these tenants were not able to speak to their rights because they had no rights, except the potential to be evicted. It was fear-mongering.

Mr Galt: Thank you for your presentation and expressing your concerns for those who do rent apartments. I'm a little concerned and disturbed as I think about municipal politicians and what you're saying and what you're suggesting. Where I come from, I hold municipal politicians in the highest regard. They do a great job. They try their very best. I'm not saying they always come up with the right decision. That may depend on your vantage point or where you're coming from. But you don't seem to have—I'm paraphrasing here—very much trust or faith in your municipal politicians. Do they operate differently in Scarborough than the rest of Ontario?

Mrs Jamieson: I'm not going to go on record and say that. I think I have a little more common sense.

Mr Galt: I guess I'd have to disagree; I heard it.

Mrs Jamieson: Let me say that the experiences that I have relayed to you have not made me feel comfortable towards the municipal politicians. Now, when I say that, it's like every other thing is—I don't say all of them. I'm not saying all of them would do that, but I am saying that there was a large portion who voted not to even allow us to know the results of a survey that was our taxpayers' money. We had that right. They put the advertisement in the paper and said, "Ward so-and-so and so-and-so, there's going to be a public meeting," which implied that we couldn't go, but I knew that we could. But you'd be amazed at how many people did not realize that. I must admit that I'm very sceptical. I want them to prove themselves before I can support them.

Mr Galt: The other area to toss back to you is in connection with registration of apartments, knowing where they are, making sure that they meet the standards.

Mrs Jamieson: I think that's an excellent idea. I have no problem with that. In fact, I really believe that bill would encourage people to register them. I think they should be registered.

Mr Galt: So you're supportive of registration, but you're not supportive of leaving it in the municipal hands?

Mrs Jamieson: I'm really nervous of the fact that, looking at what happened before Bill 120—and I worked on this area for 10 years—municipalities were not willing to accept that they were going up—"Let's not look at this situation"—until they got to the point where they were in so many numbers.

I guess the other thing I want to say is, I don't believe the 100,000 apartments in houses were all not good. I do believe there are good apartments out there, but you do get some pretty horrendous ones that really need to be monitored.

Mr Hardeman: I'm just wondering, on the issue of the accountability or the wishes of local council to make the decision, you suggested there had been a public meeting held but it was not very well advertised, that some members of council seemed to prefer that not everyone attended.

Mrs Jamieson: That's true.

Mr Hardeman: Having said that, would you not agree with me that this type of an issue, whether we have single-family residence areas or whether we don't, should be a decision through public consultation and the wishes of the individual communities, that this should be a decision made by those members of the communities through the public hearing process which is required through the zoning process?

Mrs Jamieson: I think it's very important that that happen. The only thing is that in our case, where there was a survey done and it did show really that two thirds were willing to have them for different reasons and one third was not, and yet it seemed as if the people who got called were the people who were sitting on the side of the municipality's feelings, just fortunately the rest of us were interested enough to keep scrounging around and make sure that we knew when they were going to have these public meetings in order to address them. So it was a concern, but yes, I do believe that public meetings should be held.

Mr Hardeman: So you would suggest that going through the local process with public meetings would tend to lead to the direction of the good neighbour syndrome, as you mentioned in your presentation where I think the neighbours agreed with it?

Mrs Jamieson: Well, I think as long you're not going to do every basement apartment or accessory apartment that's going to be built. I think that would be difficult; I mean, to inform them about everyone. You're now delaying a process that you have trouble keeping going as it is. I still think the other thing is that if there's a long delay, it could encourage people to just put them in anyway without informing the municipality.

Mr Gerretsen: Mr Galt and I agree on at least one thing. It's been my personal experience as well that most of the municipal councillors I've dealt with over the years have been trying to do their best and have usually acted in the best interests of their community. I know that during this entire process the last couple of days, we've heard all sorts of comments that people have made where maybe they've had individual experiences with local councillors that have been not only negative but almost bordering on the harassment situation etc.

Would it be fair to say that your concern can be summed up this way? You have no problem with registration, you have no problem obviously with having health standards for units and things like that, but the real problem is that a local council may try to keep the secondary units out of the so-called better residential areas where usually the bigger houses are that can usually accommodate the secondary units better than in perhaps areas of towns or cities that aren't as desirable. Is that the concern?

Mrs Jamieson: Just looking at where I reside, I would say that that's exactly what happened. It was obvious because you could tell which councillors were in the wards where there were much bigger homes that still had the basement apartments in them, but they ignored that. So yes, that did happen. It was obvious at times.

Mr Gerretsen: It's interesting that you would say that they've been ignored in some of those areas. I know too of some of the better areas of the city where I'm from where you've got basement apartments. Somehow it's not an issue to the people who live there, but it is an issue to the neighbours—not about those apartments but about the apartments that are somewhere else in the city. I guess my question is, do you have any concerns about any other aspect of the act at all; for example, dealing with the deferral of public notice requirements in the approval of subdivision areas?

Mrs Jamieson: I must say that for me, having gone from a professional status to a citizen only, there are a lot of things that I haven't been privy to as I was in the past. So I really focussed in on one of my main concerns, and that is that people do be informed. I think it's important that people have a say. But in terms of some of the nitty-gritty details, I must admit I don't have any real opinions on that, other than I think that your public, who are your taxpayers, have a right to at least be informed.

Mr Hampton: I wonder if you could agree with this statement. I come to me that the argument we've heard from you and from Mr Formica amounts to this: The choice is between accessory apartments that are regulated

and that meet health and safety standards and accessory apartments that are unregulated and do not meet health and safety standards, because the market is going to exist, no matter what.

Mrs Jamieson: That's definitely my opinion. At the last set of committee meetings, one of the MPPs asked me if I really wanted children to be brought up in basement apartments, and I said to them, and I say to you now, I don't have a garage on my house and I would love a garage, always wanted one. I don't have one and I'm never going to have one, and that's part of life. Not everyone is going to be able to afford a home, so the reality is, I want what's best for them, for those who are going to rent. They're not going to have the finances or maybe they choose not to live in a home. Some of the elders like to live with their families but they want some independence, so therefore the basement apartment is an option.

I know our next-door neighbour at one time didn't believe in basement apartments, until her husband had a stroke, and what she brought in was she put in a basement apartment and they had a nurse live there who was able to help with services. So when I look at that, I say I still want those health and safety standards in place. I don't want to return to where there was a system where we just totally ignored them and some of them were in deplorable condition.

I went into a home that was a client-based home at the time, where there were two single mothers in a basement apartment who shared one living room. One had one child and one had two children and they had one bedroom between them. There was no kitchen; it was a bar, where the gentleman had pulled out the panelling and put in a fridge and a stove. This is because it was illegal, so he wasn't going to report it, and they certainly weren't going to bring the fire department in or the building code in, because they might get evicted. It was all they could afford; he charged them \$500 each a month for that.

The Vice-Chair: Thank you very much for coming and being patient with us. We do appreciate your presentation.

Before we adjourn, I'd just like to remind us that we should be back here, at 1 o'clock; otherwise we're going to back up the others as well. Is that what we agree to? Okay. We adjourn for this time.

The committee recessed from 1223 to 1313.

The Vice-Chair: I think we will proceed. Although we don't have a quorum, we have a consensus from those who are here to proceed so that we don't get so backlogged that we can't catch up to this.

METRO TENANTS LEGAL SERVICES

The Vice-Chair: We have our first delegation here from Metro Tenants Legal Services, Mr Young, welcome.

Mr Toby Young: Thank you. Good afternoon, members of the committee, my name is Toby Young and I am a staff lawyer at Metro Tenants Legal Services. I'd first like to say a few words about who we are and what we do.

Metro Tenants Legal Services is a community legal aid clinic formed in 1976 to advocate for the advancement of the legal rights of tenants in Metropolitan Toronto. We

give information and advice to tenants on our telephone information lines, in our offices and by providing duty counsel at landlord and tenant court. We also provide legal representation for low-income tenants and groups whose cases have the potential to advance the rights of many tenants. We deliver public legal education targeted especially to groups who generally lack the access to information and advice concerning their housing rights. And finally, we assist tenants to organize themselves, often in conjunction with other organizations like the Federation of Metropolitan Toronto Tenants' Associations.

With respect to Bill 20's amendments affecting the apartments in houses, at the outset let me say that we are dismayed that the Minister of Municipal Affairs and Housing is introducing this legislation. We feel that the provincial government ought not to be abdication its leadership role in the creation and implementation of housing policy. Municipalities have been unresponsive to the needs of a substantial number of constituents in terms of providing affordable and inclusive housing choices. MTLS views the proposed changes as regressive and reactionary and unrelated to any rational approach to the housing needs of low-income tenants. What follows is a review of those sections of Bill 20 which relate to apartments in houses from the perspective of their potential impact on tenants in Metro Toronto.

I now turn to the amendments to the Planning Act, subsection 1(3) of the bill repeals the definition of residential unit, which had been added by the Residents' Rights Act. Section 8 and subsections 19(1), 21(1) and 29(5) repeal the restrictions concerning the content of official plans, bylaws and plans of subdivision with respect to two-unit premises.

We do not support the repeal of those provisions of the Residents' Rights Act which made apartments in houses available as of right throughout the residentially zoned areas of any municipality, town or village. It is our view that Bill 20 will inevitably result in less choice for tenants, as municipalities move to prohibit the development of apartments in houses by passing new bylaws. One need only to be aware that over 30 municipalities are part of a charter challenge opposing the apartments-in-houses provisions of Bill 120 to gain an understanding of local governments' attitudes towards apartments in houses.

In our view, zoning should emphasize the distinction between uses and where an area is zoned residential there ought not to be any further zoning restrictions based on the type of residential accommodation that tenants are living in. Where the premises are truly residential, we believe that the laws must apply equally to all tenants.

In our view, zoning bylaws that permit only single-family houses in residential areas are outdated and premised on a myth of the nuclear family that no longer reflects reality, nor the goals and values of the majority of members of our communities.

These bylaws may appear neutral but their impact is not. Justifications are often couched in the language of planning or drains on services, but historically these municipal rules have controlled who may live in residential neighbourhoods. Giving that power to local politicians may suit the desires of elements of a community,

but such bylaws silence the voices of many others who make economic, social and cultural contributions within that same community.

These bylaws have a disproportionate impact on various groups of tenants, namely single people of all ages, single-parent families, people who are new to Canada and people whose incomes prohibit them from seeking other forms of housing. Zoning can be and is used to keep different groups of people out of a neighbourhood. In our view, the right to adequate housing cannot be at the option of municipalities.

MTLS is also concerned about the impact Bill 20 will have on tenants in these apartments as compared to other types of tenants. One of the most important protections for tenants' quality of housing is the requirement in part IV of the Landlord and Tenant Act that landlords ensure that the premises they rent are in a good state of repair and fit to live in. The apartments they rent out must comply with health, safety and housing standards.

While tenants and their advocates can find no lawful reason for those provisions not to apply to tenants living in illegal units, since they pay rent like other tenants, the courts have been inconsistent in their decisions on whether tenants living in illegal apartments in houses are covered under the Landlord and Tenant Act. These interpretations leave tenants and their advocates struggling to secure safe housing in the shadows of the law.

Judges in landlord and tenant court have managed to take away the rights of tenants if there is a contravention of a zoning bylaw. For example, in one case involving an application by a tenant under the Landlord and Tenant Act for repairs and an abatement of rent, the judge would not grant the remedy to the tenant, holding that the tenant's letting of the premises contravened the zoning bylaw and the court would not force "an illegal contract."
1320

I'd now like to turn the members' attention to the retroactivity provisions of Bill 20. It is subsection 74(2) of Bill 20 which makes those provisions regarding official plans, bylaws and plans of subdivision retroactive. In effect, Bill 20 grandfathered existing apartments in houses which were legal on or before November 16, 1995. While MTLS is relieved that those apartments in houses will be deemed legal, there's an overriding concern that the retroactivity of this legislation is both unnecessary and potentially damaging to the rights of tenants.

The effect of this provision is that there will be created two classes of apartments in houses. There will be those that already existed before November 16, 1995 which will remain legal, if they met the planning standards under the Residents' Rights Act. Homeowners of these units will, of course, still be required to bring their apartments up to the provincial fire standards. However, new apartments created after November 16, 1995 will once again be at the mercy of their local government. Each municipality will be able to create exclusionary zoning restrictions for all new apartments in houses, determining where they can and can't exist, and what planning standards will apply.

Bill 20 will, therefore, create a double standard: one set of rules for apartments in houses created before November 16, 1995, and a second set of rules for those

created after that date. These double standards will create mass confusion for tenants and homeowners. Tenants will not know whether their apartment is legal and what standards will apply. This lack of common standards across the province may result in this form of housing once again going underground in much the same way as prior to the passage of the Residents' Rights Act.

Bill 20 will undermine tenants' security of tenure and where tenants don't have the security of tenure under the Landlord and Tenant Act, they are also not secure in the knowledge that they will be able to enforce their rights without fear of reprisal from municipalities. There will be confusion created about the legality of apartments in houses and it will be difficult to advise tenants of their rights where they are caught between these two pieces of legislation.

There is a very real possibility that tenants will once again find their homes to be illegal as they become subject to zoning bylaws which once again prohibit apartments in houses. MTLS recommends, therefore, that the provisions of Bill 20 not be made retroactive to November 16, 1995. Instead, MTLS proposes that the amendments come into force on the day Bill 20 receives royal assent. Otherwise, there will be apartments in houses which will be affected and tenants' security of tenure jeopardized.

I'd like to move now to the amendments to the Municipal Act.

Subsections 59(2) and (3) permit municipal bylaws to contain provisions concerning: (1) the registration of two-unit houses and the revocation of those registrations; (2) the imposition of specific standards which must be met in order to register; (3) requiring as many inspections as necessary, prior to registration, to determine compliance with the standards.

MTLS does not support the creation of a registry for apartments in houses. We maintain that there is already a lack of available resources for the inspection of apartments and that by adding an extra layer of bureaucracy in the form of a registry these scarce resource will be stretched even further. The costs of creating and operating a registry would be better directed towards the hiring and training of municipal inspectors to enforce compliance with safety standards.

Not only does Bill 20 permit registries, but it also allows the passage of bylaws which may prevent an apartment in a house from being occupied where the house is not registered. In effect, for tenants this creates yet another reason for municipal authorities to shut down their home, that is, for the owner's failure to register. As well, it empowers municipalities to specify those planning standards which must be met in order to be registered. This enables municipalities to preclude registration by specifying a wide range of planning standards, to which any non-conformity could result in an inability to register the unit, thus rendering the apartment illegal.

In short, a registry simply sets up a whole new set of obstacles for homeowners and potential legal problems for tenants in apartments in houses. MTLS maintains that there is no evidence which warrants this type of arbitrary and intrusive treatment towards apartments in houses as compared to other forms of housing stock.

If the purpose of these provisions is to ensure that safety standards are complied with, MTLS takes the position that there are already methods available to municipalities such as the Building Code Act and the fire code to deal with the substandard apartments in houses. MTLS is concerned that these amendments will only further enable municipalities to crack down on these apartments.

In conclusion, we have to ask if these proposed changes advance the rights of tenants. The answer is an unequivocal no. MTLS does not support the repealing of those provisions of the Planning Act that restricted municipal power to exclude apartments in houses in residential areas. The Residents' Rights Act prevented any official plan or municipal bylaw from prohibiting the creation of apartments in houses in areas where residential use is permitted by law. Despite the fact that we had some criticisms of that act, MTLS supports the present state of the law in the face of the changes proposed by Bill 20.

By once again giving municipalities the power to pass bylaws which prevent apartments in houses, it is open to municipalities to zone this crucial supply of housing back into a realm of "illegality." Prior to the passage of the Residents' Rights Act, MTLS received numerous calls from tenants living in illegal units inquiring about their rights. Since the passage of the Residents' Rights Act, the number of calls that MTLS receives from tenants living in illegal units has been reduced to a few calls per month.

We would expect that this situation will change, because these amendments will reduce tenants' measure of security in their housing even further. Sending apartments in houses back into the realm of illegality will again reopen issues of illegality due to zoning bylaws.

Tenants in legal apartments in houses already face more insecurities than other types of tenants in that they may more readily be evicted for landlord's own use under section 103 of the Landlord and Tenant Act. Moreover, because these units are not required to be registered with the rent registry, these tenants are not as well protected by the Rent Control Act and are more vulnerable to illegal rent increases. As such, these tenants are already less secure than are other types of tenants, and Bill 20 can only serve to reinforce this vulnerability.

Given existing residential housing in many neighbourhoods, these amendments leave municipalities with far too much power to restrict access to available and affordable housing. Zoning, by its very essence, is a negative tool; it can only be preventive. In contrast, apartments in houses are a proactive and creative way of dealing with the shortage of affordable housing and developing vital communities.

Finally, the basic reality is that apartments in houses will be created with or without municipal sanction. This type of housing is needed by tenants and is desired by tenants. The undeniable fact is that apartments in houses exist and will continue to exist despite municipalities' attempts to ignore or eliminate them, which is clear evidence that municipalities are unwilling to recognize people's housing needs.

The Vice-Chair: Thank you very much. We have 10 minutes left, which will be divided three ways, starting with the government representative.

Mr John R. Baird (Nepean): We should divide it two ways.

The Vice-Chair: Maybe they'll show in time.

Mr Baird: If there's still no representative from the Liberal Party here, do we get to split their time?

The Vice-Chair: Actually, we'll use that time to make up some of the time lost waiting to start. In fairness, we did agree with three.

Mr Baird: I appreciate your presentation. I just want to fundamentally underline the principle in the bill which causes concern: the issue of local municipal governments having the authority to introduce and maintain zoning requirements within their municipality. With respect to the issue of basement apartments and second apartments in the same home or semi-detached, you said it would cause chaos. Do you think there would be genuine chaos there, with the grandfathered provision? Given the host of regulations and requirements for tenant protection and what not, there will be things much more complex than this. It's simply that if you had it before November 1995, you'd be grandfathered. How would that chaos manifest itself?

Mr Young: The point I'm trying to make is that by grandfathering in certain apartment houses up to a specific date, those become legal so long as they comply with the standards at that time. However, for those units created after November 16, retroactively they will be zoned illegal when municipalities move once again, as we anticipate they will, to prohibit second units or apartments in houses in those places. There are a number of units which could be created which will fall into this grey area, this no man's land, if you will. We think that's going to create even more confusion for tenants. It would be better, in our submission, if these particular provisions weren't applied and that it just be made effective as of the date of proclamation or royal assent.

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Mr Baird: With respect to municipal registration, all of us would agree that first and foremost, above anything, health and safety is a priority, to ensure that there are safe environments. What has been your experience with municipal registration in this area? What are your thoughts on how it would manifest itself?

Mr Young: As you probably heard, MTLs opposes registration. We simply don't think it's necessary. In effect, the purpose of Bill 120 and the Residents' Rights Act was to ensure that health and safety and housing standards were met in these units. The problem for a long time was that they were ignored. Finally, they were recognized and legalized and there were mechanisms put in place to make them safe. If you ask me, this legislation is simply unnecessary and can only, in my mind, be a mechanism for potential abuse by municipalities that dislike this form of housing.

Mr Baird: I know there are strong concerns in communities where people have concern about never being able to find a parking spot at their principal residence. There are some communities in my area where they put the houses as little as three feet apart and there's simply very little room for parking and what not. And there's the whole infrastructure there that the municipality obviously has to provide, from snow removal, water, sewage, basically community infrastructure, transportation, a whole

host of things. It's the government's view that we want to return that authority to the local level for zoning, and it certainly isn't based on any negative aspect of tenancy whatsoever.

Mr Young: Assuming that's correct, I would still argue that the so-called drain on resources or the inability to provide adequate parking—in the evidence I've seen, that simply doesn't hold up to any kind of scrutiny. There's some evidence to suggest that people who rent apartments in houses are less likely to own cars, for example.

In terms of drains on services, the fact is that the demographics are changing. You have these big family homes now with one or two people in them. The nuclear family is much smaller than it used to be, and by putting a second unit into a house you really don't increase the volume of people in that house. They were formerly there back in the heyday of the 1950s and 1960s.

In short, we're not convinced that those arguments raised in support of this bill are persuasive.

The Vice-Chair: Thank you very much, Mr Baird. We'll go to the opposition.

Mr Gerretsen: No, thank you.

The Vice-Chair: Ms Churley?

Ms Churley: Thank you very much, Madam Chair. I want to come back to the registration again. I find it interesting that you talk about an extra layer of bureaucracy and that scarce resources will be stretched even further. I agree with you that the most important area where we need to spend very scarce resources these days—with municipalities losing about 47% of transfer payments, the resources are even going to be scarcer. I find it peculiar that the Solicitor General of this government objects to, for instance, gun owners having to register their guns and justifying it on the basis of too much bureaucracy, too much trouble for the gun owner, too much expense—who's going to pay for it?—yet they're demanding that people register a second unit in a house. I just find that a weird contradiction and I'm wondering if you have any comment on that.

Mr Young: I certainly agree with your point. I would think guns are more dangerous than apartments in houses. The basic point here is that registries really just aren't necessary. The dangers that have been alluded to regarding apartments in houses and the people who live in them simply don't hold up to any kind of clear analysis. And with resources very, very limited, as you say, it would be wiser, in our submission, if that money was spent on enforcing the standards onsite by having inspectors go down to the units, as opposed to creating this bureaucracy with forms to be filed and people to be hired and what not.

Ms Churley: The question is, who's going to pay for it? Are you concerned, as I am, about the cumulative effect of this policy, which will certainly restrict again second units in housing, along with the threat of losing rent control legislation and this government also getting completely out of providing affordable housing? We've already had people freeze to death on the street. There are more and more homeless. There are kids ending up in tiny, cramped motel rooms because they have no place to live. Couple that with the welfare decreases, and these all at a certain point come together. I wonder if this is for

you part of the overriding concern, that we're going to lose affordable housing in Ontario.

Mr Young: Yes, absolutely. This is just one very small part of a housing program implemented by this government which we are adamantly opposed to. We believe the provincial government has a strong role to play in the creation and implementation of housing policy in this province. So-called getting out of the housing business, to my mind, is not an adequate solution. It will leave those who are most vulnerable and most unable to find housing even more vulnerable, despite whatever good intentions the legislation may have.

The Vice-Chair: Thank you very much for attending this afternoon. We welcome your presentation.

CANADIAN BAR ASSOCIATION—ONTARIO

The Chair (Mr Steve Gilchrist): Will the representatives from the municipal law section of the Canadian Bar Association come forward, please. Good afternoon, and welcome to the committee.

Mr Lex Bullock: Thank you very kindly. Mr Chairman, members of the committee, my name is Lex Bullock. I am the chair of the municipal section of the Canadian Bar Association of Ontario. With me is Virginia MacLean QC, the first vice-chair of the municipal section. What we'd like to do today is to divide our presentation into two halves. I will be dealing primarily with the first half of Bill 20; Ms MacLean will be dealing with section 23 on. You have our presentation before you.

I don't propose to deal with the sections individually. As a matter of principle, our section and the bar association is here today to support the government's move towards a more efficient planning process; however, of course to emphasize the importance of retaining a fair process when looking at these kinds of amendments.

When we speak of efficiency, we really think of two particular criteria: The first is the question of timely decisions and avoiding delay and the streamlining aspects of Bill 20; the second is the issue of a reasonable and affordable cost for appeals and of the planning process in general for those whose rights are affected by the planning process. It's important to remember that these are property owners, in addition to the development industry. I think that's a perspective that needs to be kept in mind: Property owners are affected by decisions made under the planning process.

If I could take you to the introduction of our submission, as many of you know—I see Mr Hardeman is here, Mr Gerretsen is here—the bar association has been very actively involved in planning reform in this province for some time. We very much appreciate the opportunity to provide input to this committee about Bill 20 and, as I mentioned earlier, commend the new government for its willingness to address unresolved concerns about planning reform. With the exception of our continuing concern—and, I would emphasize, a very serious concern—about the committee of adjustment provisions, the Canadian Bar Association of Ontario generally supports the present amendments. It is our opinion that Bill 20 has succeeded in addressing several of the major shortcomings of Bill 163, the previous amendments to the Planning Act. Ms MacLean will be addressing very

specifically the issues about the committee of adjustment and our concerns in that regard.

Commenting upon section 1 of the bill, the new definition of "public body" in subsection 1(2) has the effect of consolidating provincial planning appeals with the Ministry of Municipal Affairs and Housing. It is our opinion that such a corporate approach to planning decisions and appeals is appropriate and will encourage more efficient decision-making; in other words, a very appropriate role for the province to unify the objections or concerns of the various ministries in the Ministry of Municipal Affairs and Housing.

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However, we are somewhat concerned about the regulation-making power in subsection 1(3). If such power were to be exercised frequently, it would detract from the efficiencies previously achieved by the corporate view by unifying the appeal review power in the Ministry of Municipal Affairs and Housing. It would be our recommendation that subsection 1(3) of the bill be deleted.

I'd next like to address section 3 of Bill 20. This section amends subsections 3(5) and 3(6) of the Planning Act to remove the "shall be consistent with" provincial policy statements test that was introduced by Bill 163. The "have regard to" test that originated with the original Planning Act, 1983, has been reinstated. We believe that this is one of the most significant and important amendments in Bill 20.

In its submission to the standing committee on administration of justice in September 1994, the Canadian Bar Association of Ontario reviewed the difficulties of complying with the "be consistent with" test. It's our opinion that the return to the original Planning Act, 1983, test is preferable, as it will alleviate the administrative burden and consequent cost upon municipalities by removing the need for a detailed case-by-case examination of each policy statement for every planning decision that's made. In other words, what you'll see, we believe, is that the provincial policy statements will be applied very much at the official plan level, which is in our view the appropriate level for them to be applied at, and then subsequent planning decisions of course will have to comply with the official plan, which has already complied with the policy statements.

We believe that the amendment, the reinstatement of the "have regard to" test, should significantly reduce the costs and delays that would have been created in the planning process if one retained the "be consistent with" test. So again we're very much in support of the section 3 amendments in Bill 20.

I'd next like to address section 9 of Bill 20. This section replaces the section 17 official plan review and appeal processes with a new, direct appeal process with shorter time frames. The section also empowers the minister to exempt official plans and official plan amendments from his or her approval and to authorize another approval authority to exempt official plans and official plan amendments within their jurisdiction from approval.

It's important to note that even if a plan is exempt from approval, the right to appeal to the Ontario Municipal Board is preserved by subsection 17(24). On a plain reading of section 21, the same right of appeal is pre-

served for official plan amendments, even where those official plan amendments are exempt from approval. We endorse the preservation of these rights of appeal and support the Ontario Municipal Board in its continuing role as an impartial and independent appellate body to hear appeals under the Planning Act.

The new section 17 replaces the existing official plan referral powers with a direct appeal to the Ontario Municipal Board, as I mentioned. The Bill 20 amendments provide that an appeal fee may be prescribed under the Ontario Municipal Board Act. We support the direct appeal approach because it is a simpler and more efficient appeal process. We are concerned that reasonable and affordable appeal fees be prescribed so that the appeals are not prohibitively expensive for the average Ontario ratepayer. Again, the emphasis is upon the planning process affecting the average homeowner, the average property owner in the province.

With respect to section 13, which is the section I'd like to address next, we generally support the reintroduction of shorter time frames for appeals and the direct appeal process, although certainly in our view we have always believed that the Planning Act, 1983, was a very well-drafted piece of legislation and in fact, if used appropriately, had very short appeal time frames pursuant to it as well. So we're somewhat interested in seeing the direct appeal process introduced and again very much in support as a more efficient kind of appeal process, but are wondering why there wasn't perhaps a return to the original time frames provided for under the Planning Act, 1983. With respect to the appeals under this section, we reiterate that the appeal fees prescribed should be reasonable and affordable for the average Ontario ratepayer.

I'd next like to address section 20. This section amends the zoning powers of municipal council as they relate to contaminated lands and sensitive or natural areas and further amends the zoning process to provide notice to the public of the Ontario Municipal Board's new early dismissal powers.

We support very much the giving of this notice of the early dismissal powers to the public. The act provides that this would be done in a timely way at one of the initial meetings for the rezoning. We believe that such notice will ensure that members of the public can preserve their rights in a timely way and understand that if they wish to participate in planning decisions, they need to maintain a consistent position from the initial submissions they make. As respects the balance of the amendments, we would reiterate our support for the direct appeal process, seeing it as more expeditious.

Finally, in terms of my comments, section 21: This section amends the Planning Act to restore the authority to council to pass zoning bylaws prohibiting the construction or use of two residential units within a house. I believe this was one of the issues that the gentleman before us was speaking about.

We have no comment to make with respect to the change in planning policy. However, we do support the government's decision not to amend subsection 35(2). This provision provides that the zoning power does not include the authority to pass a bylaw that has the effect of discriminating between persons who are related and

those who are unrelated. This is a long-standing provision in the Planning Act. It codifies the established law of this province, and we very much support the government in maintaining what we see as an anti-discrimination provision in section 21.

Ms Virginia MacLean: Mr Chair and members, in the time allotted I propose to deal with the section 24 change and the section 26 change.

We are somewhat surprised that the government announced it was going to repeal Bill 163. Both of these sections were not in Bill 163. They were in part of the planning studies, and the Canadian Bar Association has commented eight times in this process; this is our eighth time here. We have been consistent in our comments as they relate both to the changes made to the site plan approval processes, which is what you're putting in section 24, and our comments with respect to the committee of adjustment appeal process.

The change to section 24, which is a change to section 41 of the Planning Act, is to give municipalities powers to require land for public transit purposes as a condition of site plan approval.

We would not support this recommendation or this change. It's our submission that municipalities have sufficient power already and there is an Expropriations Act and there are other means of obtaining public transit rights of way rather than putting it through the process of site plan approval.

Our concern is abuse and the potential for abuse that would reside in a municipal council if it had a power to determine something to be for public transit purposes. It may be in their official plan for five years and they may decide it's not there. What happens with that land they've acquired? I would submit that if they are going to put through a subway or whatever they're going to do, there is the Expropriations Act. It has adequate remedies.

With respect to the committee of adjustment appeal process, first of all, we'd like to say we fully support the submissions that were addressed to you yesterday by the Ontario Association of Committees of Adjustment and Consent Authorities. We endorse all the comments contained in their submission.

We have consistently, through the Planning Act review process and into Bill 163, been opposed to any changes to the rights of appeal from a decision of the committee of adjustment to the Ontario Municipal Board. We oppose this very strongly, because this is a private property owner's sole right of getting to the Ontario Municipal Board. It is designed for minor variances. As indicated, if you have the provisions which you are now providing, which give control to the council and do not have a as-of-right appeal to the Ontario Municipal Board, you're slanting everything in favour of either the large developer or the municipal corporation. The small property owner no longer has the rights that were guaranteed to him under the existing provisions of the Planning Act.

Moreover, if you're concerned about fairness of process and you have eliminated the rights of the application of the Statutory Powers Procedure Act to the decision-making powers of the council on its review, you are further eroding the rights of the individual to protect his property.

1350

It's our submission with respect to this particular proposal that you leave it as it is, allow the rights of the individual to be exercised before that committee of adjustment and allow him to appeal to the Ontario Municipal Board.

The last section, the fee cost section of that particular section, we have not addressed specifically in our comments, but we would like to comment on it. That fee cost section, in our submission, is very onerous. We appreciate that this is an age of cost recovery, but this is one area where we submit the provision should not apply. You are taking away the right of the individual property owner to appeal if he is faced with the potential of paying the costs incurred by the board in holding a hearing. If the fees are high and are unreasonable, plus the potential penalty costs provision, we would submit that you are effectively stopping the board from functioning as it now functions in dealing with these kinds of appeals.

Therefore, in terms of an alternative, we had recommended earlier, and you'll find it in our submission, that a leave-to-appeal process could be implemented. We appreciate that one of the concerns was that the Ontario Municipal Board was burdened with too many appeals from committee of adjustment decisions. We had recommended a leave-to-appeal process, so the board could then make its own decision to determine and weed out unnecessary appeals.

Again, as I indicated, we are very much opposed to any change to the committee of adjustment right of appeal, and that is really the main thrust of our submission.

With respect to the other sections, the comments are there in the paper. Most of them that are housekeeping we have no concerns with. Some of them are necessary housekeeping amendments, and we don't propose to deal with any of the comments.

We have a number of comments on how certain of the changes proposed to the Development Charges Act, the Assessment Act and the Municipal Act will work, but they're just editorial changes and they're not anything of substance. That is really the conclusion of my remarks on those two areas.

Mr Bullock: To wrap up, we're here today very much to support efficient planning decisions. We would point out that the efficiency ought not to be at the expense of an inherently fair process, and we're here very much to request you to delete the provisions respecting committee of adjustment appeals to council and to maintain the committee of adjustment appeals to the Ontario Municipal Board.

I can really do no more than quote from the submission of the Ontario Association of Committees of Adjustment and Consent Authorities: "People rely on the fair, impartial and full hearing that is available to them, if necessary, at the Ontario Municipal Board. They may not always agree with the decision, but the objectivity, impartiality and fairness of the appeal process is a fundamental right that is critically important to the parties involved."

It's important to remember that a lot of these decisions affect what we suggest would be the smaller property

owner and the property rights those individuals have. Thank you.

Mr Gerretsen: I'd like to turn to this committee of adjustment appeal matter. We've probably heard about that more than anything else. I'm intrigued with your notion that any person who wishes to appeal to the committee must set out the reasons in writing and then all parties have an opportunity to respond in writing and then the OMB could decide. Would you not agree with me that from a practical viewpoint they simply haven't been doing that, have not been using the "frivolous and vexatious" objection section?

Mr Bullock: No, I would not agree. I think the Ontario Municipal Board has been using it very effectively since the power was introduced approximately two years ago.

Mr Gerretsen: How often have they used it?

Mr Bullock: I don't have the statistics, Mr Gerretsen, but certainly it's clear from our discussions with board members and the chair of the board that it is a power that they've been using very effectively to rid the system of inappropriate or unreasonable appeals.

Mr Gerretsen: Maybe we can hear from them then because that's certainly not my impression that's been given by other presenters. In actual fact, I don't think the OMB's time really is spent with committee of adjustment matters. I believe that only 6% of their total time, according to some statistics that were given to us yesterday, is being used in dealing with minor variance matters.

Would you agree with me that one of the main difficulties is that there's a very long period of time, in even relatively minor minor variance situations—I know that's a term certainly that's subject to some debate as to what is minor and what isn't minor—in a lot of cases, to get the board to have a hearing? It's not because of any fault of theirs necessarily, but simply because it just takes a long period of time. If there was some way in which we could shorten that period of time, would that not maybe be a solution to the problem?

Ms MacLean: I think that when you shorten the time you can't do it at the expense of denying a fair hearing; that's the balancing.

Mr Gerretsen: I'm not talking about the appeal times. I'm talking about the period of time between the time when somebody appeals to the OMB and the OMB actually has a hearing.

Ms MacLean: They're about six months right now.

Mr Gerretsen: Right. In a relatively minor situation, do you think that that's too long or about right, or too short a period of time?

Mr Bullock: I think the parties would always like to see it shorter, Mr Gerretsen, but as a practical matter in this day and age—certainly something less than six months would be preferable but it's not an unreasonable length of time.

Ms Churley: I find it interesting—I was just trying to look up section 4 in here but I didn't have time to find it—that you have no comment on it, simply because John Sewell was here yesterday and said that section 4 was gobbledygook and that the government should get the lawyers to look at it. Actually my question isn't on that.

I want to come back to one of the other big issues that's been raised here, and will continue to be, and that's

disagreements about "have regard to" as opposed to "be consistent with."

Mr Bullock: Yes.

Ms Churley: I know lawyers who have an absolute opposite opinion to yours, which of course in the legal community is not necessarily unusual.

Mr Bullock: Or any community for that matter.

Ms Churley: That's true. I think you're coming at your presentation very much from a legal point of view, not really examining the policy implications that much.

Mr Bullock: I think that's fair.

Ms Churley: But it has been said to the committee and to me personally by lawyers that just the opposite from what you suggested will happen, that in fact there was a tradeoff made when this bill was created, that municipalities wanted more autonomy and not have to go to the province all the time for approvals; they got that. The tradeoff would be to bring in a consistent provincial policy to have it broad enough, fair enough and with enough flexibility built in, but to make it easier for the smaller municipalities that just don't have the money and the staff to do a lot of the work. That was the tradeoff.

What we're hearing from some people is that the lack of clarity will mean there will be more appeals than ever because this gives any municipality the opportunity to look at it, then toss it aside and ignore it, and then there will be more community groups, environmentalists, all kinds of appeals because there'll be disagreements when you don't have that consistency in front of you. That's the other side of this, that it may look on the surface that it's going to speed up the process. The opposite view is that it will complicate the process and spin it out even longer because there is less clarity.

Mr Bullock: That may be the opposite view. It's one we obviously don't agree with. I think it's important to understand how the planning process works and I think it's important to understand that the primary document that will be measured against these policy statements is the municipality's official plan. Subsequent planning decisions on rezonings and variances then need to conform to the official plan.

We support it because we think that an appropriate kind of testing will be done at the official plan level and that then, once that is done, the local municipality will be able to measure subsequent decisions against its official plan. They shouldn't have to jump back, if you will, back up to the policy statements.

1400

With respect to your comments about appeals, like lawsuits one can never stop someone from making an appeal if that's what they choose to do, but from the bar's perspective, the powers the Ontario Municipal Board has to dismiss an appeal early on in the process are appropriate. That is where the vetting will be done and an assessment can be made about the *prima facie*, the initial, the on-the-surface, on the face of the merits of the appeals. So that's why we support it as being more efficient.

We also support it as being a clearer test. There is established case law with respect to the "have regard to" test. There obviously isn't with respect to the "shall be consistent."

Mr Hardeman: I thank you very much for your presentation and I think it's fair to say that you are not the first presentation that has expressed some concern about removing the right to appeal for minor variances.

I found it interesting in your recommendation that the Ontario Municipal Board should be authorized to make the decision based on written submissions from all the parties concerned. From your legal perspective, would that be the same for the people writing it in? Would they be getting their fair day in court by written submissions, not knowing what the other side had written in and not being able to explain their position? By the OMB, would that be perceived as being fair and just to everyone concerned?

Mr Bullock: From our perspective, it's always preferable in our view for there to be an oral hearing. But when one looks at the recent amendments to the Statutory Powers Procedure Act it is becoming clear that paper hearings, if you will, when one looks at the cost and the cost recovery side of things and balances that with the question of having your views put forward, are becoming more accepted.

Moving with the times, perhaps we should have added to our submission that there ought to be, as you've suggested, a right of reply to the appellant and I think that's certainly implicit in our submission. If you have the appeal going in and you have the respondent writing in to say it's not meritorious for this reason, we certainly think the appellant should have the opportunity to respond, yes.

Mr Hardeman: The other issue, if I might, Mr Chairman, very quickly, is the issue of the requirement of property for transit by municipalities that was referred to. It's my understanding that the present Bill 163 allows or has that authority for the upper tiers, but it does not have it for lower-tier municipalities, that being the reason it's in there. I wondered if that would explain why it came out of nowhere as it appears to in your presentation.

Ms MacLean: That may well be the reason. Our position is still the same on it, whichever tier government has it.

Mr Hardeman: You're content that if it was good for one it's good for the other.

Ms MacLean: No.

Mr Bullock: We don't believe—it's a question, Mr Hardeman, as I think Ms MacLean explained earlier on, of surplus and what happens in those instances.

The Chair: Thank you both again for your presentation and we appreciate your comments.

Mr Gerretsen: Mr Chairman, I have a motion here that I'd like to move and perhaps we could hold discussion on it until later on in the day if there's unanimous consent.

I move that the committee formally request that a representative of the Ontario Municipal Board appear before this committee to answer questions relating to the current practice and effect of appeals from committees of adjustment to the OMB.

The Chair: Is there consent that we table this motion for debate at the end of the day? Seeing no contrary opinion, consider it tabled.

METRONTARIO GROUP

Mr Paul Mondell: Good afternoon, Mr Chairman and members of the committee. My name is Paul Mondell and I'm here on behalf of the Metrontario Group. The Metrontario Group is a group of companies that I am proud to say has been in business for the last 50 years, developing residential communities and building homes in the greater Metropolitan Toronto area. We have major development projects currently under way in Burlington, Oakville, Richmond Hill, Pickering, Oshawa and the city of Toronto. In addition to these extensive holdings, we have development interests in two other provinces and four states.

Thank you for the opportunity to address you this afternoon on an issue that is very important to our company and to our industry, an industry that has for the last five years been brought to its knees as a result of economic conditions, a lack of consumer confidence and an ever-increasing amount of unnecessary administrative and legislative red tape.

I am here this afternoon to express my support for Bill 20. I believe that the introduction of Bill 20 is the first step to a return to a balance: a balance between economic development and the protection of the environment, and a balance between the roles of municipalities and the role of the province in setting the legislative and planning framework in Ontario.

It is absolutely crucial for our industry that a new planning system be introduced that returns a balance between economic development goals, streamlining of the planning process and the protection of the environment. We need a system that clearly promotes the benefits of economic development and allows us to get back to the job of building homes and places of employment that will stimulate the economy. Our industry can and will do that if given the tools to do so.

As you know, our industry is one of the largest employers in this province and our ability to provide affordable housing and to successfully create jobs is largely determined by the planning framework within which we operate. Over the past five years we have seen an attempt to reform the land use and planning and approval system in Ontario. This review came about as a result of the previous government's desire to fix a system that it perceived was not working. Unfortunately, the current act fell well short of achieving two of the goals for which it was intended: streamlining the system and empowering municipalities.

It seems to me that the more we talked about streamlining the planning process the more complicated it became. In fact, I would suggest the current Planning Act creates greater uncertainty between provincial and municipal powers, establishes longer, more complicated time frames, and discourages a balance between economic and environmental issues.

What we have now is an opportunity through this legislation to fix the problems that were created by the current Planning Act and, as I said, to return to a balance in the process.

This government has made it clear that it understands that growth and economic development are clearly linked to planning legislation, clear policies and the process

itself. Economic development has finally become a government priority equivalent to the protection of the environment.

The draft policy statements also make significant progress towards addressing the balance I referred to earlier. The new policy statements are considerably less prescriptive and more focused on matters of core provincial interest. There must be clearly defined roles for the province and for municipalities in order to eliminate the needless overlap and duplication which delays the process of obtaining development approvals.

The province's role must be clearly articulated and defined. However, within this planning framework municipalities must be given the power and the flexibility to make planning decisions which are appropriate for their communities. This, I believe, has been achieved by returning to the "have regard to" test. This respects the local decision-making process and encourages locally driven solutions while ensuring the provincial interest is taken into account.

Bill 20 also encourages a one-window approach in dealing with the province. We need to return to the days of having clear and concise guidelines. The existing act with its complex guidelines has created a system that stifles many applications.

Today I would suggest that we operate in a system that's full of documents prepared by various ministries that have the words "draft," "proposed," "interim" and "guidelines" on them. These documents have no official status but are being implemented as if they were official government policy.

1410

The new policy statements are very clear and concise. The new policy statements, I would suggest, should also lead to the creation of a stable supply of registered lots and designated land that will help to keep our land and housing affordable and not lead to wild fluctuations in land prices.

Bill 20 also accomplishes other important objectives: shorter time frames for processing applications. This will, in my opinion, create a more efficient process.

The direct right of appeal to the Ontario Municipal Board. Bill 20 provides for the absolute right of appeal and eliminates the discretion and uncertainty associated with a referral request.

Appeals to the Ontario Municipal Board by the province may only be made by the Ministry of Municipal Affairs and Housing. The one-window approach to provincial planning restricts the ability of other provincial agencies to unduly frustrate the process.

Finally, Bill 20 makes it clear that the appeal clock starts to tick upon the submission of the prescribed information. The onus is now on the municipalities to deal with the application once it's received. This eliminates the ambiguity of a complete application, as being interpreted under the current legislation.

It is important for this legislation to move quickly to becoming law. Our industry is in a period of transition. We have in effect three systems because of the uncertainty that's been created by Bill 163. Many of us, including myself, moved very quickly to submit applications under the previous Planning Act and as a result

have still not been able to fully understand the implications of the current legislation. With the introduction of Bill 20, many of my colleagues have held off submitting new applications until the current situation becomes more clear. Once this legislation is proclaimed, it should lead to more applications being submitted as more confidence and certainty in the system is once again created, and I would suggest that it will get us back to the job of building houses in this province. Those are my comments.

Ms Churley: I perhaps missed it. There's no document, I take it, that was handed out?

Mr Mondell: No, I'm sorry. I just prepared this presentation.

Ms Churley: That's fine. Therefore, I just want to ask you, and perhaps you said it at the beginning, what is your group? I see you're land development. What do you do exactly?

Mr Mondell: We're a land development company. We are by and large subdividers of land and have a large number of projects, I'd say mostly large holdings, primarily residential.

Ms Churley: Within the Metro area?

Mr Mondell: We've got projects on the books right now in Burlington, Oakville, Richmond Hill, Pickering, Oshawa and in the city of Toronto, and as I said, we're also involved in projects in two other provinces and four states.

Ms Churley: And what do you do with the company?

Mr Mondell: I'm in charge of the land development and planning process for our Canadian operation.

Ms Churley: So you've dealt over the years then with municipalities all over, you said in other provinces as well, so all over the country.

Mr Mondell: My experience has been limited to the greater Toronto area.

Ms Churley: I see. So you've mostly dealt with the local municipal councils. I was going to ask you some questions about other jurisdictions, but I guess you're not aware of those.

Mr Mondell: No, sorry.

Ms Churley: I guess I just have a general question to ask you. Is there anything about this Bill 20 you don't like? Is it, in your view, perfect?

Mr Mondell: I would suggest to you it's far from perfect. I think there are many details that need to be examined. I'm certainly not the one or in a position to be doing a clause-by-clause assessment. There are certainly a number of things that need to be looked at, I would suggest, but I think it's returning in many respects back to where we were with the 1983 act and a system that I think most of us were quite comfortable working under.

Ms Churley: It wasn't a facetious question. It's just that most people, even those in support, have mentioned a few things they'd like to see changed.

I just remember when I was elected to a city council not all that long ago, in 1988, before I came to the province, there was a pretty huge turnover at Toronto city council because of some very, very bad, poor development going on within the city of Toronto. Partially—we refer to it, many people referred to it as the curtains down at the waterfront, that obstruct people's view. Essentially I think there's almost total agreement, perhaps not with some in the development industry, that that was

a disaster for our waterfront and for our city and there was a recognition that there had to be some changes in the way city council was dealing with applications for development.

I just throw that story in, and of course there was a huge turnover in city council, and I was one of those elected under the program of more responsible development: not stopping development, but responsible development, with more community participation.

One of the things that this bill does is it really cuts down on the public participation, which I think, as a representative of the people, is very, very important. I just wonder if you have a comment, if there's any time left. I know it can be very frustrating to developers, but at the end of the day I've seen better development for all when there's proper public participation and everybody having a say who has an interest. It ends up, I think, on the whole, for the long term, better development.

Mr Mondell: I agree that there has to be a balance between the development that we bring to the table and the protection of the environment and I would suggest to you that the way Bill 20 is set out, some of the situations that you have referred to may not have happened in quite the same way.

However, I do believe that if the municipalities are not given strict time lines in which to deal with applications, they will continue to drag. I can point to many examples where we were waiting for eight, 10, 12 months for very, very simple amendments to zoning bylaws that were holding up construction, that were holding up developments that could otherwise have gone through and may have, for whatever reasons in the last five years, missed an opportunity in the marketplace.

Ms Churley: But that's a bureaucracy problem as opposed to a public participation problem, which I think has to be addressed here, the difference between giving people ample time to prepare and respond as opposed to the internal problems which we've all seen in bureaucracies in government. I believe that's where the focus should be, frankly, on trying to speed up the time.

Mr Mondell: I don't believe there's anything in this legislation, in this bill, that is restricting the rights of individuals to comment and make applications—

Ms Churley: Oh, yes, there are.

Mr Mondell: —that they wouldn't have otherwise.

The Chair: Thank you, Ms Churley, that's your five and one quarter minutes. We'll move to the government benches, I believe Mr Ouellette.

Ms Churley: Do you want me to point those out to you?

Mr Ouellette: Thank you for your presentation today. The builders in the community have pointed out that there are approximately 120-odd steps that take place from the time a piece of property is purchased till the time it's developed. Do you have any idea of the percentage of reduction in steps this change represents and the costing as it relates to, say, a home buyer?

Mr Mondell: I'm afraid I don't. I'm sorry. I would say, though, that I believe with some of the time frames that have been set up, obviously time becomes money for all of us, and all attempts to try to condense the process and allow us to get on with it are going to lead to a more

efficient process, as I said, and hopefully reduce the costs at the tail end of the project, when it is the consumer who is ultimately paying that price for the delays.

Mr Smith: Just a couple of quick questions with regard to practice and process perhaps. You made reference to the "have regard to" test. I just wanted to get your opinion on whether you feel the switch back to that "have regard to" will compromise either your industry's ability or municipalities' or stakeholders' in general ability to adequately test environmental concerns that may arise during a development project and whether or not the streamlining process that you referred to and the reduced municipal time frames will compromise the ability of municipalities to adequately assess a planning project.

Mr Mondell: I believe at the end of the day, notwithstanding the time frames that have been set up, our industry will still have to present its case as to why an application should move forward and the proper documentation and background studies are going to have to be prepared. So I don't believe that the municipality's ability to assess an application is going to be compromised.

Notwithstanding the time frames that have been set up, I may be able to trigger a right to an appeal to the OMB much more quickly, but I'd be foolish to do so if I didn't have the proper backup and documentation to support that by the time I got to the board. I'd be thrown out on my ear, I would suggest. So we still have to prepare the background documents. We still have to prepare the information that's required.

With respect to the "have regard to" test, I would suggest to you that the current Planning Act has got such a long list of complicated policy statements and guidelines that it's very difficult for a municipality to assess what it's being consistent with, and in many cases you may have competing interests. I think the "have regard to" test, as I said, is going to allow municipalities to tailor their decisions to their local situation, and I would suggest that as long as there is no adverse impact on a development or the proper mitigation measures are taking place, the municipality can move forward in that process, knowing that it has had regard to the provincial policies. I think that is a very, very crucial thing for our industry.

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The Chair: Any other questions? You've got approximately two minutes remaining. Okay, we'll move to the official opposition.

Mr Gerretsen: Do I take it then that we have seven minutes? Are you yielding that time?

Interjections.

The Chair: No.

Mr Gerretsen: Oh, okay, I see. I'd like to get back on something, though, that Ms Churley raised earlier. It's always been my concern, having seen it from I guess all three sides over the last 20 to 25 years, that the real problems are not the time limits that are set for appeals and various processes in the act. The real problems are that, as you stated yourself, it can sometimes take eight months to get something out of city hall or eight months to get something out of a different ministry, let's say the Ministry of Municipal Affairs, or certainly it will take eight to 12 months to get a hearing before the OMB etc. Is that not where the real time delays are?

Am I in stereo here, or what? What's happening? Go ahead.

Mr Mondell: I think it's a big part of the problem. There's no denying that. I think what this bill represents, as I understand it, is that it's going to start putting much stricter time limits on municipalities so they can't drag out an application for whatever reason, whether they just don't plain like it. It's going to require the municipalities to become more efficient and to deal with applications in a timely way, and if that's one of the things that comes out of this bill, then—

Mr Gerretsen: But you know as well as I do that if you've got an application for a rezoning before a municipality and everything seems to be going along all right and they want to take an extra month or two beyond the time periods that are prescribed in the act for them to deal with it, you're not going to appeal it to the OMB. You're going to wait until they deal with it two or three or four months later.

Mr Mondell: On a minor issue, I would probably agree with you. On a major issue, I may take issue with you and say that we will make sure that if the proper steps aren't followed, we're going to push that button, because we know that at least we're going to get a date, whether that's in front of the Ontario Municipal Board—

Mr Gerretsen: You as a land developer would almost ruin the good reputation that you have with a particular municipality that you'll have to go back to maybe a year from now on another project on an issue like that, if you know they're coming your way, or if you have that feeling?

Mr Mondell: I would say every situation would certainly be assessed individually, but if the situation as you've described it—if it's a matter of waiting for an opening on an agenda because of a workload issue, you're right, I would not make an issue, as my own personal practice would be. I can't say that every municipality and every company works the way we do. We generally try to work with the municipalities and try to get a consensus before anything reaches the municipal council level, certainly. That's not always possible.

Mr Gerretsen: The other issue deals with the fact that you made a statement near the end of your remarks to the effect that we can get housing going again. We were told earlier today that there are over 20,000 approved lots—I'm not sure whether they were all single-family lots, but there were over 20,000 lots in the greater Toronto area that are just ready to go right now. Would you not agree with me that the real reason why there aren't any houses being built has got very little to do with the planning process but more to do with the economy over the last four or five years?

Mr Mondell: I would suggest to you that that certainly has an important bearing. In three municipalities that I'm currently involved in applications, those being in Burlington, in Oakville and in Oshawa, I would suggest to you that there is a very limited number of lots that are available to the marketplace today. If I had lots available within those municipalities, I would be bringing those to the market in anticipation of what we see as possibly some light at the end of the tunnel, and hopefully this year will be that year.

In many municipalities, there may be that availability of product. That does not apply on a municipality-by-municipality basis, and I would suggest to you that the lots that are available in Ajax and Whitby aren't doing me any good in Oakville or Burlington.

Mr Gerretsen: One other issue, and that deals with the issue of the one-window shopping: I personally like this notion of it going through one particular ministry, because if you phone somebody here in Toronto within government, at least you'd have somebody to contact, rather than having to contact 15 or 20 different people in different ministries about this.

There was something in your remarks, though, and we didn't get them in writing so I may have misunderstood you—it is my understanding, from what the minister said here yesterday, that if there is a concern a particular ministry has that may not be shared by Municipal Affairs, certainly in that case the minister would still launch the appeal on behalf of the other ministry—let's say it's Environment or Natural Resources—to ensure that the hearing is held. Is that your understanding as well?

Mr Mondell: I understand that the Ministry of Municipal Affairs could assign their one window to another ministry, for instance. But we have many situations where we are dealing with a ministry that is not being cooperative, that there are competing interests, as I mentioned, where the Ministry of Agriculture and Food may launch an appeal notwithstanding everyone else is on side.

Mr Gerretsen: That could still happen, though, except it's done through the one window rather than—

Mr Mondell: I understand that, but I think generally speaking the spirit in which this one-window approach is being put forward, as you have said, being able to have that person, that individual, that one ministry that can coordinate provincial concerns into one issue and hopefully prioritize what the concerns are, is going to lead to a more efficient system and make it less difficult to deal with various provincial ministries.

The Chair: Thank you, Mr Mondell. I appreciate your taking the time to make your presentation today.

GEORGE AREGERS
JOHN ANGA

The Chair: Our next group up is two individuals, George Aregers and John Anga. Good afternoon, gentlemen. We have 25 minutes for you to divide as you see fit between a presentation and question-and-answer period.

Mr George Aregers: First I'd like to thank the committee members and staff for allowing us to make a presentation today. We hope you consider our recommendations and submit them to the Legislature. Before I continue reading the script that I have, I'd like to tell the committee here that we're not developers. We are small land owners who own properties on regulated land.

I've owned my land in Mississauga since 1981. I was supposed to raise my family peacefully. It's never flooded—nothing. Since 1981 I've been terrorized. The government wants the property for parks. I'd like to tell these people here that that's what the intent of Bill 163 was.

1430

This Bill 20, we agree on it. It is a good bill but there's only one problem with it: It's not retroactive to

the first reading of November 16, 1995. This morning I got in touch with the director of planning. His name is Philip McKinstry. I asked him one particular question, "Why is this Bill 20 not retroactive?" He said, "It's unfair to the municipalities." I said to him: "Let me tell you what is really unfair. The city of Mississauga"—you can see in the back of my written form there's a page—"they notified me that there was going to be an official plan proposed."

Granted, it started in 1993. Since then I've always called them up and asked: "Are there any changes? This is my land. Is it going to be affected in any way that I have to make a presentation?" They said, "No, you don't have to worry."

I got this letter and I said, "I want to take a look at the official plan." "It's not available." I said, "What do you mean it's not available?" "Well, you have to look at it after November 16." It's odd that it happened to be the first reading of this Bill 20.

I made a presentation to city council and I begged them, "Why don't you incorporate in this official plan what Bill 20, the new government, wants?" Oh, no.

My biggest concern was that I am told that the province, Bill 163, gives the power to Mississauga and other municipalities, and this is the horror in this whole thing. I own a property. Part of it's on regulated land; part of it isn't. I'm told that by their new official plan Bill 163 gives them power that if a tree falls on my house and it burns down, they will not give me a permit unless I give them my regulated land plus a buffer zone. Then they will consider a permit. But think of my friend here, John Anga. He doesn't have land. All his land is on regulated land. If his house burns down, if his garage burns down, if he lived in Mississauga he wouldn't be given a permit. That is the unfair thing.

What I can't understand is, why don't we roll this Bill 20 to be retroactive to November 16, 1995? Why are we giving all these municipalities time to incorporate in their official plans sections of Bill 163 that will terrorize small, little home owners?

We are only a very few of us left who have regulated lands. In the past 30 or 40 years, slowly the municipalities have been taking this property from us through the conservation authority. The situation we have here now is that the conservation authority has lost some of its power, and this Bill 163—what's happened, and the municipalities knew this—gave them the power to do what the conservation authority was doing, but now they've incorporated these things in the official plan to take lands from private owners.

I'm going to read this information that I gave to you, and if there's anything here that you don't understand I'll explain it to you, but please consider it; be fair. Let's make this Bill 20 retroactive to November 16, because Mississauga knew about it and there is no reason why it's not made retroactive.

The government has taken a necessary step to remedy a harsh Planning Act. This is a bad piece of legislation which should never have passed. The present government should have abolished the entire act and reverted to the old one. Since the inception of Bill 163, the committee responsible catered to special-interest groups, conserva-

tion authorities and unscrupulous municipalities. Their underlying goal was to acquire additional public lands at the expense of private owners. The private land owner's concerns were ignored: mine.

In its present form, Bill 20 is perceived by many to bring fairness and justice, and I say the word "perceived." However, this is not the case. We believe that all legislation should apply equally and fairly to all jurisdictions in the province of Ontario. I've highlighted this: Bill 20 is not fair. Bill 20 can be made acceptable and workable if it is retroactive to November 16, 1995, or beyond. We believe that any official plans incorporating harsh policies of the present Planning Act which conflict with Bill 20 must be abolished and made to conform with Bill 20. Bill 20 allows municipalities and regions a choice and sufficient time to take advantage of the existing bad Planning Act.

We believe in this case that the present government is not candid with the public. Good government should be discouraging, not promoting, bad legislation. Contrary to amendments in the Development Charges Act—this is in Bill 20—we find the opposite applies and is retroactive to November 16, 1995. Why is there a difference? Why do we have one act that's retroactive but this, on the Planning Act, is not? Is the government appeasing vocal and non-cooperative municipalities to the detriment of civil and property rights?

A retroactive date of November 16, 1995, must be incorporated into Bill 20 for this to have any credibility.

This unjustified grace period to municipalities allows the passage of official plans incorporating harsh policies and statements of the present Planning Act. These official plans become totally exempt from Bill 20. It is obvious that the government is giving ample time to municipalities to escape Bill 20's abolishment of—I've put here two points. There are others. One of the points is "all municipalities consistent with government policy statements." This applied to all jurisdictions in Ontario.

A policy was made. Maybe some of the people don't know it, but this is the policy statement that everywhere in Ontario they had to comply with. Most of the information that's in here, the diagrams and the graphs are from the local conservation authority. If you take a look at one of the diagrams, it shows you something from the Grand Canyon, where all the river valleys in Ontario are, which is not true. I have vast land in the back of me that is over half a mile. It's not the Grand Canyon, but I'm told I can't do anything with it. It's good that this government has abolished that, and the new policy statement that's out from this government is fair. I just got a copy of it last night and I've read it.

The other thing that was very shocking in the past government was that council was able to approve all uses of land in construction just with the stroke of a pen. If any constituent complained about it, took it to the OMB, the argument would be, "The province says I can do it." But speaking with Philip at the ministry this morning, he says that it's possible for municipalities to do that now still or go further. What I told him was that it's not the province delegating what you're supposed to do; it's something that you can contest now and make a presentation to council. If council oversteps it, you can accuse them. The municipality can't say, "The province wants us

to do this." I really have to thank this new government for removing that number two.

Again I'd like to get back. The non-retroactive clause in Bill 20 discredits the purpose and intent of Bill 20. If this Bill 20 is approved in its present form, private land owners are at the mercy of local municipal councils, who are now more than ever capable of acquiring lands without compensation to private owners. With municipal budget restraints in progress, now all property owners are vulnerable. Bill 20 must be retroactive because harsh policies will exist in some official plans forever, and it's true. Mississauga has put all these things from Bill 163, that takes my land away from me, and no matter what happens in the future, it's in their official plan.

The present government has misled us. They promised adequate changes would be forthcoming to combat the harsh policies of the present Planning Act. Bill 20 was supposed to kill Bill 163. I was told by my local MPP that Bill 163 was like a dinosaur. It's going to be dead, but it's not.

Various other changes, such as the dismissal of automatic right to appeal, leaves the property owners without recourse and a loss of property rights. I talk about this automatic right to appeal. I understand that it's for variances. But in our area, my neighbour there has a little lot and he wants to build on it. Because his lot's not 65-foot frontage, he's denied because he abuts on to a ravine area. But in the same area, you've got all kinds of properties that were less than 50 feet that got building permits. Now with this new system that we've got here, you can't go to the OMB if the municipality favours one individual over another. It's up to them to make a decision. If this change is not accepted by this government our expectations of good government is diminished.

I'd like to end my presentation and I'd like to go back to the special public meeting. You can see what I've underlined there on the first page. They have stated to the public that their official plan—and remember how close this thing is to November 16 in this area, when they knew about Bill 20, that they said this plan "that resulted from the approval of Bill 163 and associated regulations." Well, the part "regulations" is wrong. Really what they're referring to is this: It's a policy statement, and Mississauga has placed this in their official plan.

I could give you an example if you'd just bear with me that they've taken out of here a definition, which is "development." If you look into this thing, "development" has got one, two, three, four, five different terms to it. If you look at some of the terms, like "development" to anybody who'd want to say, "We're developers," you know, if you're going to go—no. Our great past government says development is that if you want a building permit for just a board across your porch, that's development. And they've incorporated this term "development" in the official plan that if anyone wants a permit, you're not allowed unless you give your regulated lands to them, free, plus a buffer zone.

This is the last page here which I underlined, that this official plan, the draft plan was available—we don't know what was in it—to council about a month and a half prior to November 16, 1995. I called up when I got this letter. "You're not allowed to see it till after Novem-

ber 16." When I went there November 16, it wasn't even allowed to the public. "It's not ready yet."

Lastly, I'd like to thank this committee for listening to me, and I hope we all can agree, please, let's make Bill 20 work. Let's make it retroactive that we can help some of the small homeowners that are affected severely. I'd like to keep my land for my family.

The Chair: We have about eight minutes left, so just over two and a half minutes per caucus, and questioning will begin—

Interjections.

Ms Churley: He has some more. We'll give up our question period—

The Chair: Oh, absolutely. Feel free, Mr Anga.

Mr John Anga: My name is John Anga. I am the president of the Valley Landowners Coalition. I live in north Etobicoke in an area known as Thistletown. I am also the owner of the last farm in Etobicoke. I'd like to thank you in advance for the time allocated for me to speak, both as a private individual and also as the president of the Valley Landowners Coalition.

I am concerned about the many restrictions that Bill 163, which was imposed by our previous government, has placed on ordinary property owners like myself. Although I am in favour of Bill 20, I don't think it goes far enough to rectify the damage Bill 163 has done. For years now we have been lobbying the provincial government and the Metro bureaucrats regarding the unfair treatment of property owners of ravine lots and valley lands, but our cries keep falling on deaf ears.

The restrictions imposed upon us are horrendous, and yet the property taxes we pay are equivalent to similar homes in the area that have no building restrictions whatsoever.

Believe it or not, as George mentioned here—if, heaven forbid, my home should burn down, I wouldn't be able to rebuild it. Believe it or not, they won't even let me fence my property in against the vandals who come across on to my property at harvest time and destroy my fruits and vegetables and all the crops. I want to just emphasize something here, I grow a lot of pumpkins there. In fact, one year we had about 1,500 pumpkins and we couldn't pick one. Somebody came over and sliced every pumpkin in the field, and it's despicable.

1440

Every time one of our members applies for any kind of building permit, it's a nightmare. The amount of red tape and the costs associated are such that usually we give up. The demands that are put on us by these authorities are horrendous. At the end, our permits are refused if we don't give in to their underhanded demands.

For example, as George mentioned earlier, in some cases they demand some of your property in exchange for a permit. We cannot appeal our decisions to the Ontario Municipal Board, but instead have to appeal to an internal arbitrator with a predetermined verdict. Over the years, appointed bodies like MTRCA have purposely drifted away from their original mandate set out by the province. They have slowly taken on different roles in order to justify their paycheques at the expense of taxpayers. The autonomous power that this appointed body has acquired is frightening. These bureaucrats have

built a self-governing empire that is impregnable by any level of government.

The disrespect this authority has for private lands leaves a lot to be desired. We have been closely monitoring their activities and without any doubt they have double standards. They restrict the private sector from improving their properties while they, on the other hand, tear hell out of the valleys with their dozers and back-hoes, having little respect for the environment, the trees and the wildlife.

This city has thousands of miles of paved roads and sidewalks which, if properly delineated, can be used for bikes. That, however, is not enough. MTRCA and Metro Parks feel that we must exploit the only natural resource we have left and those are the valleys.

In their quest to pave bike paths through the valleys, they have altered the contour of the land, bulldozed through environmentally sensitive areas, cut down trees and scared off many animals and wildlife living there. They have divided the animals' natural habitats with yet another paved road. You trust these people and call them conservationists? I don't think so.

We think a closer look should be given to Bill 20 to ensure that private land owners are treated fairly. We implore you to read Bill 20 over very carefully. I'm sure you will agree that it gives us private owners very little consideration.

I have eight points here for your consideration and these are my comments here.

(1) Stop the unnecessary acquisition of private lands. The taxpayer can't afford it and the land is safer in private hands. Most people who own valley lands are naturalists. It isn't necessary to spend taxpayers' money to purchase such lands.

(2) Encourage all levels of bureaucrats to work closer with the private sector. They have created too much animosity with the private owners. This is not healthy.

(3) Existing structures that pose no immediate threat to human life should be allowed to remain where they are and the owners should have the right to upkeep such properties without any hassle.

(4) More consideration should be given to the people who live in these regulated areas. This government, along with local municipalities, should acknowledge the fact that we are legal, paying taxpayers and have the right to live in peace.

(5) Individual agreements that are mutually suitable can be drawn up between this government, local municipalities and private owners regarding any long-term acquisition. I made an example there, but you can go on forever.

(6) The constant exploitation of valley lands for bike paths should be stopped. It never should have started in the first place. Man's greed to exploit everything is the reason why this world's in the mess it's in today.

(7) We should have a proper appeal system, such as the Ontario Municipal Board, available to us to handle any land or permit disputes.

(8) Last but not least, a retroactive date of November 16, 1995, must be incorporated into Bill 20 for this bill to have any credibility.

Once again, thank you very much.

The Chair: Thank you, both of you gentlemen. Given that there are just a few seconds left, we don't have time for questions from the three caucuses, but thank you both for your submissions and we'll certainly review them when it comes time for our clause-by-clause deliberation.

METRO TORONTO CHINESE AND SOUTHEAST ASIAN LEGAL CLINIC

The Chair: Our next group up this afternoon is the Metro Toronto Chinese and Southeast Asian Legal Clinic. I am told there will be a slight delay for the written handouts; they're being rephotocopied, but the clerk will deal with that.

1450

Ms Avvy Go: I'm just going to read from my presentation here. Good afternoon. My name is Avvy Go and I'm the clinic director of the Metro Toronto Chinese and Southeast Asian Legal Clinic, which is one of the 72 clinics in Ontario that serve low-income people.

I'm going to restrict the scope of my deputation today to a specific issue. As you know, Bill 20 is a massive piece of legislation and, like the omnibus bill, it affects various aspects of the lives of Ontarians and contains many changes that I will not be able to deal with all today. In fact, I think it would be impossible for any individual group or individual person to go through every single aspect, but particularly so for our clinic, because our mandate is to serve low-income people. We provide legal services in the areas of tenant law, so I will be restricting my comments on issues that will affect the groups that are served by our clinic.

For these reasons, I will focus today solely on the amendments that affect the former Bill 120, which was introduced under the previous government. The amendments in Bill 20 with relation to Bill 120, in effect, will reverse all the positive changes that have been made to legalize basement apartments or apartments in houses in this province.

The specific amendments proposed by Bill 20 that come under this banner of apartments in houses will affect various provisions under the Planning Act, the Municipal Act and so on. I have a list of the provisions. There is section 1 of the Planning Act which deals with the definition of "residential unit;" section 16 of the Planning Act concerning the content of official plans with respect to two-unit premises; section 31 of the Planning Act restricting the authority to pass any bylaw prohibiting two-unit premises; section 35 of the Planning Act dealing further with restrictions to bylaws concerning two-unit premises; section 51 of the Planning Act dealing with approval of a plan of subdivision; subsection 6(4) of the Rental Housing Protection Act regarding restriction on issuing permits. There's a new section 207.3 of the Municipal Act concerning bylaws for the registration of two-unit houses and the right for municipalities to order that houses which are not registered vacate one of the units; and finally, the provision dealing with the retroactivity.

Our clinic was one of the groups that presented before the legislative committee when Bill 120 was introduced. We were also one of the organizations involved in the public inquiry into the issue of illegal apartments in 1994.

The inquiry was organized by the Inclusive Neighbourhoods Campaign. So this issue is not new to us.

I'm sure this committee has heard and will hear again from community groups and tenants' rights groups as to why we need to legalize apartments in houses. You have probably heard either from Metro tenants or from other groups about the discrimination faced by tenants who live in these apartments which, when deemed illegal, give tenants no recourse when their rights are being violated.

You have probably also heard about who these tenants usually are: low-income people, single mothers, new immigrants, refugees. In other words, these are people who are usually marginalized in so many other ways by our society that they are unable to stand up and speak out about their own concerns when they have some kind of conflict with their landlord.

This committee may have also heard that Bill 20, if passed, will create a double standard: One set of rules for apartments in houses created before November 16, 1995, and another set of rules for those created after that date. This committee may have also been told that these double standards will create mass confusion for tenants and homeowners since people will not know whether their apartment is legal or not and what standards will apply to them.

Many community groups may have told you already that giving municipalities the right to create apartments in houses registration systems is not going to solve the problem. The system would only be used by the municipalities that are hostile towards apartments in houses to crack down on these apartments.

But more importantly, the committee must have been told that the law legalizing these apartments was actually working. Not only were the tenants better able to exercise their rights to ensure safety at home, but more importantly the homeowners who were renting out their in-house apartments were in fact learning about the new fire safety standards and were doing the work to bring their apartments up to standard.

The only question that this committee needs to ask itself today is: Why change the law when it's working for everyone?

It is one thing to introduce some law without knowing for certain what this new law would do to the people. It is quite another thing to take away some legal remedies that the people have benefited from, knowing exactly that taking away these remedies would harm the people affected. By de-legalizing apartments in houses now, this government is in effect taking away something that has been of benefit to the community as a whole.

I would like to invite the committee to imagine just for a moment what will happen if Bill 20 is passed. To do so, let me take you back to an incident concerning fire in basement apartments just before Bill 120 was passed. There was a fire, if you remember, in a basement apartment in Mississauga that left a single mother's family in devastation. The casualty or even the fire itself could probably have been prevented had the landlord simply installed some basic safety measures inside the apartment for the tenant.

If Bill 20 is passed today, I can assure you that there will be more and more unsafe apartments around in this province. Landlords will not have the incentive to

improve safety because they know that the tenants will not have any recourse from the court.

So let's imagine that this government passed Bill 20 today. Tomorrow there's a fire happening in an apartment which is deemed to be illegal by the municipality. An inquest is called to determine the cause of the fire and finds that the fire was probably preventable if the landlord had put in some safety measures, but no one knows about the problem because nobody came out. The tenants didn't try to enforce the law because there is nothing that they can hang on to.

At this point, can this government still say, "Well, there's nothing we could have done to prevent the fire"? You probably cannot say that any more because you have been specifically told that this is exactly what will happen if apartments in houses are deemed illegal. You have been told that landlords do change their behaviour when they know that their apartments are legal, as opposed to illegal, and if you had not taken the step to repeal Bill 120, we may not have seen the same kind of fire, the same kind of incident. So at little extra cost to the government, legalizing apartments could help prevent fire from happening and could ensure that thousands of tenants and their landlords in this province could live safely in their own homes.

On the other hand, declaring apartments illegal does pose a significant cost to this government and to our society. The cost to our society includes the cost of an increase in potentially unsafe apartments. It will also cost our economy because some people will be discouraged to become homeowners if they are unable to rent out part of their home to help pay for their mortgage. The trickling-down effect on the economy is not insignificant. At this time, when the government is so keen about boosting the economy, such a move is against even the common sense that this government has so clearly outlined in your revolution document.

In conclusion, there are undoubtedly many principled reasons why we should keep apartments in houses legal, but even for a government that may not hold these principles dear to its heart, it does not make any sense to illegalize apartments in houses when the law is in fact working.

I will just probably end on a personal note. I am a homeowner myself. I don't have any tenants. I live in an area where in-house apartments were illegal at one point. I think that to many homeowners it is not fair that some people can rent out their apartments legally and others cannot. As homeowners, I think we would also want see uniform treatment of tenants in apartments in houses across the province.

1500

Mr Gerretsen: I'm somewhat interested in this whole notion that this party that stands for freedom of individual rights, as this government does, is bringing in a bill that in effect prevents people from utilizing their property to a greater extent than they otherwise could, or at least than they presently could.

I'm curious as to what your opinion would be with respect to the whole notion that really it's done in order to satisfy perhaps those residential areas that are better off and more well to do and those people simply

wouldn't want any apartments in the neighbourhoods where they reside. How do you feel about that?

Ms Go: That was certainly an issue that was raised in the previous legislative hearing and the inquiry that we held because it does vary from one municipality to another and different city councils and town councils do hold different views on this issue. I think that there is a lot of argument and a lot of evidence that would support your argument that it is particularly in areas where the homeowners are well off enough not to have to rent out part of their homes who would have the strongest opposition to any bylaw that would allow people to rent out the apartments.

But in the end it doesn't really make much sense. I think it's unfortunate that the council or whatever, municipality, would be so much influenced by the smallest sort of segment within that community. By and large the majority of people, including homeowners, are not necessarily of an income level that would allow them to have that kind of freedom that they could own their home all by themselves.

The Chair: Mr Hoy has a comment here.

Mr Pat Hoy (Essex-Kent): Yes, I would like to make a comment. I come from a rural riding where these secondary apartment units are really not in existence to any great extent, although there may be some. I was trying to think about similar situations that might occur where I live and one of those situations that I did think of in recent days was the main streets of many of the small towns in my riding are over 100 years old. They have corner pillars that say they're 1893 or whatever. Many of the shops on those streets have apartments up above them. They tend to be for the lower-income people; not exclusively, but many are. I see a similarity between what is maybe perceived to be a Metro situation, but certainly a housing situation that has developed by ingenuity, by necessity in even the rural ridings where people are renting above a store. So I'm trying to envision the situation here as you describe it and I appreciate your comments today.

Ms Go: I think also, whether it's rural or urban, given the economic situation right now—take my clinic, for example. We are getting more calls from people who before probably wouldn't have qualified for our service. You know, these are people who may have been in a profession before, owned homes at some point in time but are now facing a problem keeping up with their mortgage payments because they lost their jobs or they have been laid off. I would probably think that there may be a situation where you may have more people wanting to rent out some part of their house to supplement their income.

At the same time, the demand for apartments in houses would probably also increase because the welfare rate cut has happened. These apartments tend to be cheaper than units in apartment buildings and so on. So the increase in demand and also perhaps more and more an increase at some point for homeowners to start thinking of supplementing their income. This problem is not going to go away, so for municipalities that are not keeping up with the progress in our society, I guess they will just not allow these apartments to exist or just ignore their existence. So some of the problems that we see with

unsafe apartments because they are not legalized would just continue to happen.

Ms Churley: Hello, Avvy, nice to see you again. For those of you who have never met Ms Go before, I'm sure you will see her on other occasions. She is very modest, but Ms Go is a highly respected lawyer, who is very active in—

Ms Go: Actually, I'm not that modest.

Ms Churley: —the Chinese and Southeast Asian community and in the Toronto community at large. Whenever Ms Go comes to talk to us I listen closely because of her own firsthand, personal experience in dealing with some of the lower-income communities, at least in the Toronto area.

I'm concerned about, I guess, the same issues that you raised, especially in response to Mr Hoy's comment. I have great fear that we're going to see more fires. In the best of circumstances we know that sometimes standards aren't kept up or accidents do happen; they also happen in private homes. These things happen, but we know from experience in the past that it's much more likely to happen in illegal basement apartments, where we have had terrible tragedies in the Metro Toronto area over the past several years, which is one of the major reasons why our government decided to proceed, to make sure that we weeded out those particular circumstances.

The reality is that people are going to create these apartments anyway. That's a fact, and we can't get away from that. You can't stop it, so what we do is bring back a situation that is really just unsustainable, because especially with this government getting out of rent control, getting totally out of the affordable housing or social housing market, the other cuts, job losses and all of the other problems in our society right now, affordable housing is needed more and more. People are going to live in these homes whether they're illegal or not and will put up with very unsafe conditions.

I think you have commented on that. I'm wondering if you can tell us why you think some municipalities—because that's what this government listened to—certain municipalities really wanted this act repealed in that context. Why do you think some municipalities just don't want them, even though they're there anyway?

Ms Go: Take the mosque in East York as an example or the issue in Markham as an example. There are a lot of prejudices and biases that exist in our society and the people who are targeted tend to be low-income people or people of colour, people from certain ethnic communities, immigrants, refugees and so on. If you look at the voting record, usually only 5% to 8% of the people living in municipalities come out to vote. Right? So you tend to get a council that only represents or is voted in by a small segment of the population in that area. They tend not to represent the diversity in that area and they also tend to share some of the more biased views of the people who voted them into power in the first place. That's the situation in East York.

In the mosque situation, some members would vote against it regardless of whether the parking problem has been solved. Or the issue in Markham: You know, Chinese Canadians are simply not welcome by some of the councillors from that town. Because of the type of people who tend to live in this kind of apartment, you

would attract views that unfortunately exist in our society, whether it's views against minorities or against low-income people or against tenants in general, that will be espoused by the council because of the type of people who vote them in in the first place.

It goes in a cycle. There need to be a lot of changes to a lot of things before that will go away, but for now this is the reality that we live in and I think this government should recognize that.

1510

Mr Baird: Thank you for coming and talking to us today about this important issue. We all appreciate it. The one point I take from your submission is that municipalities would immediately seek to illegalize across the province en masse this type of initiative. I think that municipal politicians by and large represent the folks they represent.

Ms Go: That's exactly the problem, that only a very small percentage of voters come out to vote.

Mr Baird: Sure. My point is I have always found municipal politicians the closest level of government. It's the level of government where can you just simply pick up the phone and call your councillor. There's a very close relationship there. I know that's been the case in the two communities I've lived in, my own constituency of Nepean and when I went to university. I went to university in Kingston from 1988 to 1992, and there was a municipal regulation in the city of Kingston. There was a very good mayor when I first arrived there, and this was a bylaw on the books.

Mr Gerretsen: Would you like to identify him or her?

Mr Baird: It's not a her, I'll tell you.

The issue was that they had a minimum of five non-related people who could live in the same household, and in Kingston the housing was very close together, very high-density, and I guess the city was very enthusiastic about its high tenant population because they were all university students, something that was a major part of the community and something that the city always worked very closely with for good relations and was very much a valued part of the community.

If we were to take that community, for example, and put basement apartments in those units, the density would become so high that you would wonder whether the community infrastructure there could support it. So the one question I have is that, you mention on pages 3 and 4, what would happen if Bill 20 was passed. Why would you suppose a municipality would want to do this and be so unrepresentative of the community?

Ms Go: Because municipalities are in general not representative of the community. It's the same problem that I alluded to earlier. Look at Markham council, for example. Over 20% of the people in Markham now are Chinese, and there is one Chinese—

Mr Baird: Their member of provincial Parliament is Asian too.

Ms Go: That's true, but if you look at the voting record, at least at the provincial level, you get a larger segment of the voters coming out to vote, but the record is just dismal for the municipality. In general, less than 10% of the people would come out to vote, so you tend to get the same kind of people being voted for year after year, and their views tend to be more insular and so on.

I'm not saying that all municipalities will then decide en masse that they will just illegalize all the apartments, which is not true. We know it wasn't the case before. In the city of Toronto, for example, it hasn't been as much a problem. But we also know from our experience that a lot of municipalities will not legalize the apartments.

I think the issue around density, or some people would talk about parking problems, if these are real problems they can be regulated better if you legalize the apartments than if you don't, because the apartments will exist in any event. If you are legalizing them, then at least you can control the density issue, the safety issue to prevent fire, or what have you. Whichever way you look it's better in terms of the control from the government perspective that the apartments should be legalized as opposed to being illegalized.

Mr Baird: Can I yield the rest of my time to Mrs Fisher?

The Chair: There is one minute, five seconds.

Mrs Barbara Fisher (Bruce): This'll take 25 and the rest can be the answer. Like Mr Hoy, I come from a rural riding where choice is something we're looking forward to. If the community probably decides to allow second units, as some would in that situation, there's an assumption, or there's coming to be a perceived assumption, that as soon as you allow it, it won't be allowed, and I don't agree with that. I feel municipalities should have the right to decide if they want second units, and if they do, then they have to be managed under the same regulations as everyone, including fire. Do you agree or disagree with that?

Ms Go: If you are concerned about managing and fire prevention, as I said before, if the apartments are not legalized, it is harder for you to manage because you wouldn't know beforehand that there was a problem. Who would come out to complain? The landlords themselves, the homeowners themselves are not going to raise their hands and say, "Look, my house is not safe." It's up to somebody else to enforce it. Most of the time it is the tenants who bring it to the attention of the authorities and then the authorities say, "We'll come in and take a look." That's how reality works.

Again, I'm not saying that the municipalities will then decide to legalize these places, but for those that are interested in safety for tenants and landlords and whatever, it is in their best interests that these apartments are legalized. If all municipalities are controlled by rational thinkers like us, then I think all of them will agree to legalize, but unfortunately that's not necessarily the case.

The Chair: Thank you, Ms Go. We appreciate you taking the time to make a presentation before us today.

LEBOVIC ENTERPRISES

The Chair: Our next group up is Lebovic Enterprises, Lloyd Cherniak, executive vice-president. Good afternoon, Mr Cherniak. We have 25 minutes to dispose of as you see fit, divided between the presentation and a question and answer period.

Mr Lloyd Cherniak: Good afternoon, members and Chairman. There's a brief report which I've left with you. I just want to hit the highlights, and I suppose the major

highlight is to congratulate the government on a very excellent piece of legislation.

There was obviously a problem that was created by the previous government with the introduction of Bill 163 that's left many of us who are active in the planning and development industries with a big question mark as to what it's all about. The series of guidelines and different regulations that were imposed would probably fill a whole table and are really not understood by anyone.

I just want to briefly introduce myself. I work as executive vice-president for a development company. It's in the GTA. We've been building and developing for over 40 years, primarily in Scarborough and currently now in Pickering, Ajax, Oshawa, the areas north of town in Aurora, Stouffville. So we have a variety of experience in developments and building houses. We also build factories which we continue to own and rent. We have a great stake in this province, as do you as well.

In terms of the development industry, there's been quite a bit of press to suggest that somehow this legislation will slacken the control over our industry. In researching it, I found that we're governed currently by 60 codes, 280 provincial acts, 65 agencies, and 450 statutes and regulations, of which of course the Planning Act is one of the acts.

I also found that currently, according to information I've researched and I've attached, over \$65 million a year is spent annually in the GTA on planning. When I discussed that with Mr Sewell in a public debate, he sort of laughed it off, and you may notice that in his final report. That of course doesn't include the money that we as developers spend on consultants and planners as well.

Just to give you an idea of what this bill can do for Ontario by reducing red tape, the development industry or construction industry in 1991 employed 582,000 workers, or 12% of the Ontario workforce, and in 1987 paid \$4.8 billion in taxes. So any improvements which help to lessen regulation and red tape and improve our industry will of course be directly transferred into better products for Ontario, more jobs, more employment.

I've also seen comments that somehow planning has reduced agricultural land. I've attached a very brief one page done by Dr White, who looked into the actual truth of this statement. He simply claims that these people are alarmists, that in fact large areas of the Ontario countryside are not disappearing as the alarmists claim. He showed that in 1981 there 8.43 million acres cropped, when prices were high, versus 7.99 million acres in 1961.

1520

I'd also like to point out that there's been a lot of criticism of development as not paying its way, which is entirely untrue. Part of this product, I suppose, discussed some changes that might occur to development charges. We all know, if anything, there's been somewhat of an abuse of that system.

In discussions with the Greater Toronto Home Builders' Association, they've informed me that each house built creates 2.5 person years of work and 109 different workers perform onsite job functions. Also, industrial and commercial properties were doing the same. So if you translate that into the some 20,000 starts that we used to have in this province, you can see the effect it can have directly on employment.

Again, cities cover a very small part of our land mass in Ontario. It seems through the term of the last government I spent most of my time arguing with environmental groups that were brought in to stop development. I think one has to look at the conflicts that occur in the planning process. There are many different government policies, and when you weigh any one policy so strongly as it was in Bill 163, you're not going to always get the correct results. So my comment to you today is that this is not only common sense but good sense that's been introduced.

Just one small comment I'd like to make by way of comment on the bill itself, and it's a point that I've discussed with Mr McQuaid, who's given some insightful speeches on problems that arose under section 34, which was introduced under Bill 163. Briefly, these sections allow a municipality to zone land that is significant habitat or sensitive aquifer and basically to sterilize its use. Our concern in this regard is that if one is giving up land—and I've put Mr McQuaid's quotes in, which I'm sure are spoken better than myself, but in my own words, if one has put forward the proposition that this land can't be used by the land owner itself, then of course there is a public interest and the public should acquire the land. I don't think any of us who are in the development industry are attempting to suggest that we should develop lands that are a problem, but we are concerned about the abuse that could result and lack of legal interpretation in the whole area of expropriation without compensation which could arise.

As I say, these three items under paragraphs 3.1, 3.2 and 3.3 were added under Bill 163 and remain in the existing bill. It would be our request that you review those sections and see if you could help out in terms of, at the very least, giving some solid interpretation to avoid some of the problems that might arise.

Again, I would like to say that, as developers in Toronto, we congratulate you on this work and hope that it will help to get Ontarians back to work.

Ms Churley: You said a curious thing towards the end of your statement. I'm just wondering if you could expand on it. What do you mean by—I didn't get the whole sentence and it may be in here—environmentalists were "brought in to stop development"? Who brought in environmentalists to stop what development? I don't quite understand what you mean by that.

Mr Cherniak: There were certainly a number of areas where developers and the development industry participated in the creation of Bill 163. I myself sat on a committee to study the Oak Ridges moraine. These committees seemed to be weighted towards the environmentalists. There were very few of us brought in from the business community. When we were brought in, we made suggestions which were often ignored. The comments that we made were not necessarily given the weight and were often outvoted by the number of environmental groups that were on the committees. I'm not suggesting that developers have a problem with recognizing the importance of the environment; I'm just suggesting that we need more balance in terms of legislation.

Ms Churley: So you consider this bill to be balanced about, say, 50-50 or do you think it's more favourable to

the development industry? What would you say, on balance, this bill is?

Mr Cherniak: I would say that the existing Planning Act, prior to Bill 163 was—

Ms Churley: I'm sorry, Bill 20.

Mr Cherniak: I understand, but I would say the Planning Act before Bill 163 was balanced. It provided for broad interpretation of environmental issues by the municipal board and municipal governments. Bill 163 went the opposite way. It took a totally extreme view and said that in any situation where there is any environmental concern, the environment shall win. So this is a return to balance which I would say is 50-50.

Ms Churley: I have a different opinion, but I just want to move on to something else. You say in your document, "But is it fair to place the burden of saving environmental features on whoever lives near natural habitat or a feature considered by others," and you know the rest of the quote. I just want to get to the developer's charge that's also going to be looked at and changed.

The government is suggesting that municipalities not be allowed to charge anything to developers above and beyond hard services. Would you say that the general taxpayer, therefore, should pay for the so-called soft services needed in a community when new sites are developed? Who should pay overall? Should the developer, the people who bought the houses? Clearly what's going to happen in this case is that the general taxpayer is going to end up having to subsidize. Would you view that as fair?

Mr Cherniak: I think your question is tilted in the way you've posed it. First, the development industry has always paid for new development and growth-related costs. When development charges were introduced by the Liberal government, there was a desire to bring a fairness back into the system and an accountability, but certainly when York region built its headquarters out of development charges—and not to blame anyone but just by way of an example—that was paid for by money that developers had contributed for new growth. So there were and continue to be abuses of development charges.

The fact is that all residents in York region pay for the regional centre in their taxes. So what you've got are new homeowners paying both through the price of a new home in development charges and through the tax base. If there are any debentures outstanding on other structures, they're also paying for that and they could well be paying for local improvements. I've yet to see any financial indication that developers have not paid their fair share for new growth and have somehow burdened the existing tax base with new growth. I don't think that's true at all.

Ms Churley: My suggestion is that that may happen as a result of this bill, that if developers are just paying for hard services, somebody's got to pay for the other services in a new subdivision. That's a reality. You've got to have schools, you've got to have libraries, you've got to have community centres, you've got to have these services.

My question still remains. I'm not talking about the past, and I quite agree with you, there have been abuses and there are problems. But I think there is going to be an even more serious problem for the general taxpayer if

we don't figure out who's going to end up paying for those so-called soft services. In that case I don't necessarily think developers will be paying their fair share in setting up new communities. I don't know what you suggest, who should be paying for it.

Mr Cherniak: As I say, I don't agree with you. I think the property taxes pay for the services that the homeowner is getting in the municipality. Certainly I don't agree with you that a new homeowner coming into North York should be paying for the library books at Lawrence and Bathurst. I think one has to differentiate between the real costs of new development, the hard services, which he should pay for—and the development industry takes no issue that it should pay for it—and other costs, which are not documented, have never been calculated, have been abused in the past. There's no evidence that any of these municipalities have suffered before development charges legalized the collection of this taxation.

Mr Smith: I want to raise one point. Earlier this morning we heard a presentation from residents from King township. During that presentation they alluded to the fact that they had difficulty making a relationship between a streamlined planning process and economic recovery. I was wondering, given your comments and your presentation, whether you'd have any specific comments you would like to make in terms of that particular statement and the types of results that you would anticipate resulting from the streamlined planning process in the context of economic recovery.

1530

Mr Cherniak: I think it's clear we're talking about an industry that is the largest industry actually in the province. You have to consider what the effects would be by streamlining. As an example, I've seen some figures in the past, that if you improve productivity by 1% in this industry, it's worth \$125 million to Ontario, and you could go through each of the tax indications, the job indications and so on. As I say, there is information in this regard.

Red tape doesn't help anyone. All it does is allow someone who is sitting at a desk to say no, and we all know it's difficult for people who have no reason to say yes to say yes. But certainly it doesn't help the people in the community who are waiting for that development to occur, because that only creates uncertainty, it creates problems in the resale market and it creates general problems in their community. By having the certainty of knowing, is the decision yes or is it no, they know where they stand in the community and the jobs are created. It's nothing, as far as I'm concerned, but a win-win for everybody.

Mr Hardeman: Thank you for your presentation. Yesterday we had Mr Sewell in, who was, I suppose, somewhat of an author of the previous Bill 163, at least he did the consultation work for it, and he expressed concern about the government changing from "be consistent with" to "have regard for." He told us the general public like the wording, "shall be consistent with," and the municipalities like that wording; furthermore, the developers like that wording, because it would give them assurances of what the rules were up front. He felt that if we went to "shall have regard for," developers and the

other parties would feel uncomfortable, because they would now know going in what the rules would be as they wound up with their applications.

I wonder if you could give us your interpretation of that, whether you feel comfortable with "have regard for," and letting the municipalities deal with the certainty or uncertainty of provincial policy statements.

Mr Cherniak: I have to smile a bit when Mr Sewell says he speaks for the developers. I know that representatives of the development industry spent hours with his commission arguing this very point. I'm sure there will be more learned speakers than me on this particular issue but, in my own experience, the problem it creates is, as I see it, you can have several conflicting provincial policies: one is to protect aggregate resources, another is to protect the environment, a third is to promote economic development and a fourth may be to provide housing.

How does one decide which one should take precedence? I mean, we can't follow every policy that exists otherwise we would be running around in circles. From my angle, I obviously want to see the GTA prosper and I want to see growth that's required continue. Therefore, if I had my way, I would always see growth as the key factor. I think the whole point of a board and a municipal council is to be able to balance all these considerations and say: "When is it correct and how much should we protect of the environment? Should we protect this aggregate resource or should we allow it to develop into housing?"

I think most people who are familiar with this subject would always opt for hearing all the information on each particular case and making a decision. That's why my own feeling is, by allowing the board or the council or the government or whoever is listening to the case to balance all the things that come out with the right decision, we're back to a system which we always had confidence in and under which we never once doubted that the right thing would be done at council or would be done at the municipal board.

Mr Hardeman: I did quickly want to get into the parts that you suggested that were in Bill 163 and that we left in Bill 20 about the significant habitat and sensitive aquifers. I was just wondering if you felt that those had come lately or whether they've always been there and whether or not the person owning that property knew their restrictions or their limitations prior to owning them, and if that would not somewhat take away from the fact that they should be paid for by the public sector as they would not be allowed to be developed.

Mr Cherniak: It's not so much knowing or payment per se. I think the real issue here is, what this is allowing to happen is that someone could suggest, for example, that your farm pond is a sensitive recharge area for the Oak Ridges moraine, even though you had been watering your cattle there for 30 years, and could thereby zone that piece of land "sensitive recharge" and not allow you to use it for your cattle at all.

There's a very recent case, which some friends of mine like to remind me of all the time, of a farmer in Vaughan who had a woodlot and at the edge of the woodlot he wanted to build a house for his children. However, the municipality did not allow him to build on it because

they said it was regenerating woodland and, therefore, he could not disturb it.

All I'm suggesting to you is there can be many abuses and grey areas where you're allowing someone to have the ability without a real strict guideline. In the Expropriations Act it's clear, when the government files a plan to build a highway, you know you're on that highway, you know the land is being taken and you know you have rights. In this case you could very well, as I say, have a cattle pond or a woodlot that you think—and you've used all your life—is part of your property, and the government could zone it a sensitive area and you couldn't use it. I think that's the issue I'm trying to address, the abuse of that section.

Mr Gerretsen: I'm glad that you mentioned, in answer to an earlier question, that you're here for the development industry and you like to see development and that's basically where you're coming from, because there are certain comments made in your brief that are so general. I must admit that, as someone trying to find the balance in the right approach to the development industry and the environmentalists, I find some of your statements somewhat broad and general.

For example, to suggest that we can get people back working again by just merely passing this act I think is a bit of an overstatement, isn't it? We were told this morning that there are over 20,000 lots already in the Metro Toronto area that are available right now for development, except there's no housing being built because of the general economic situation. Would you not agree? Bill 163 has only been there for six months and, whether you like it or not, it cannot have had that great an effect on the development industry as far as the current building of houses is concerned.

Mr Cherniak: I think you've got to recognize a couple of things. First, if you look at the number of housing units, as I said to you, at one point in the GTA we were building 20,000 houses a year, probably under your government, and we were happy to do it and the government was happy to allow it. Therefore, that would equate your current supply to one year's supply of housing.

Mr Gerretsen: Right.

Mr Cherniak: I've worked in this business a long time and I've listened to a lot of things in the press, but when you're out there working on something that you know is going to take you 15 years to bring on stream, you're very sensitive to the criticism that will arise when that shortage occurs, and that's my concern. I would say at reasonable growth rates in the GTA we have about a four-year supply of housing stock. If one were to say it's going to stay the way it is, sure, maybe we've got 10 years, but it's quite conceivable that things could turn around very quickly.

The other thing is, it's also not fair to say we have a slow economy now, therefore Bill 163 didn't do anything. Bill 163 gave tremendous powers to the municipalities. I was in York region the day after the day that came into force—I believe it was a year ago—and there were applications lined up from one end of the municipal building, down the hall, all the way through the York region centre. If it was so beneficial to industry, why did every single person who owned a piece of land in this

province make an application? It's quite clear that it had tremendous impacts, and if it had stayed in, it would have continued to have great impacts on the industry and made things very difficult for us.

There are planners I've hired that have told me that in the region of Durham they can't even understand the application form under Bill 163 and neither can the planners in the region. I think you've got to recognize that we all hope things are going to get back to normal. You've got to provide a system that's worked and has always worked; it really wasn't broken in the first place.

1540

Mr Hoy: Your first page is basically statistical. You cited codes and acts and other instruments you must deal with, and then you talked about agricultural lands. There are probably two things people aspire to: a place to live, whether it's an apartment or a home or some other structure, and of course they must eat. The demands for land are great for two different purposes.

I'm not aware of land being left idle, as Dr White states, I'm speaking particularly of classes 1 and 2, which are the most productive of lands. That's not to say that somewhere some has stayed idle, but I'm not aware of it, unless it was purchased for developmental purposes and then simply set aside and not growing a crop of some kind.

I would also like to mention to you that the growth in agriculture is probably due to technology. Whereas when I started in the business of farming, I would be somewhat disappointed if I grew 100 bushels of corn per acre; now I'm really disappointed if I don't get 145 bushels per acre. It's a per acre technological advantage that farmers have advanced.

We are, yes, creating new lands at the same time where lands are going out of production, and technology has allowed us to do that particularly in the north and east of Ontario. I just wanted to make that point with you, that in some regards the need for development and the need for agricultural food sustainability are at competing odds, particularly when we talk about classes 1 and 2 land.

Mr Cherniak: My point, and I guess it's based more on Dr White's expertise and my own of farming, is simply that there is land which farmers hold back. I've discussed this on many occasions with the agriculture federation, and they would admit that if prices are good, then they'll get their yields up and bring lands that they're not producing on back into production. The point we're trying to make here is that you don't sort of sterilize farmland as a necessity, because even farmers don't like that.

What we're trying to say is, let the farmers run a good business, let them do what they want, and sure, they may need certain protections to become a healthy farm community, but by the same token, they've been able to keep up with the pace of growth in Ontario and continue to feed the population. Dr White's view is that it's quite alarmist to just keep counting and suggesting how many acres of land go out of production every year. It's not true. The statistics show that in fact land has come back into production if farm prices are high. Farmers are running a business like anyone else. As you say, your

productivity improved and hopefully the prices improved and you tried to make more money, just like anyone else.

The Chair: That brings us to the conclusion of our time. Thank you, Mr Cherniak. We appreciate your taking the time to make a presentation before us today.

UNITED TENANTS OF ONTARIO

The Chair: Our next group is the United Tenants of Ontario. Good afternoon. We have 25 minutes for your presentation and/or questions and answers, as you see fit.

Ms Barbara Hurd: You all have a copy of our very brief brief that we've put together for this committee. I'm Barbara Hurd. I want to introduce our organization and then I would probably just read my conclusions and recommendations and maybe go to questions, and I could elaborate if you need me to.

My organization has a number of purposes, and for the United Tenants of Ontario/Locataires uni(c)s de l'Ontario, also known as UTOO and LUDO, purposes are to organize and train tenants across Ontario, to provide a means of communication between tenants, to change laws that adversely affect them, and to fight for tenants' rights to decent, affordable housing. We were founded in 1989.

The majority of our members and 100% of our governing council are tenants. We are run by tenants for tenants. Our members are from all over Ontario, from small towns and large urban centres and everything in between, and from public, private and non-profit housing. Our membership is also comprised of individuals, tenants' associations and federations and other supportive organizations.

Two years ago, UTOO appeared before a legislative committee concerning Bill 120, which gave new rights to thousands of tenants in care homes and illegal accessory apartments. From the beginning, our organization has consistently supported the legalization of accessory apartments and that is the reason we are here. We are here again to fight to keep it on the books.

I'll read my conclusions and recommendations. The recommendations that we have overall are:

(1) That the creation and regulation of accessory apartments in Ontario be allowed as provided in the Residents' Rights Act.

(2) That the education of homeowners and tenants as to their rights and obligations under the provisions of the Residents' Rights Act be continued by the Ministry of Municipal Affairs and Housing.

(3) That the provincial government take the position that exclusive zoning for single-family dwellings discriminates against people on the basis of tenure.

(4) That the provincial government adopt the position that tenants, as taxpayers and citizens, have the right to establish homes in any residential area of their municipality.

(5) That the provincial government also present these positions to the municipalities in Ontario that are opposed to accessory apartments in order to reverse their opposition.

I want to just cover my conclusions and then I will take questions. We've concluded:

(1) That tenants and homeowners in Ontario have indicated their intent and demand for this type of housing

by creating 100,000 basement or accessory units to this point.

(2) Setting standards for the creation of these units allows tenants to require maintenance and fire safety without fear of losing their homes.

(3) Passing a law and rescinding it in less than two years, leaving in its wake legal apartments and illegal apartments, creates confusion and chaos in adherence to and enforcement of standards.

(4) As citizens and taxpayers, tenants deserve more service from their municipal governments. Allowing accessory apartments would begin to address the historic neglect of tenants.

(5) Allowing accessory apartments allows tenants choice in housing arrangements and promotes positive diversification of neighbourhoods.

(6) Higher densities in suburban areas would mean more efficient use of public services.

(7) The government has not provided persuasive rationale for rescinding the legalization of accessory apartments.

(8) There are no other sources of rental housing starts besides accessory apartments, virtually speaking.

I want to just make one little correction on page 5 of my brief where I've dropped something out in the second paragraph at the top of the page, "that this society does not find it acceptable to have tenants living as fugitives." If you'd please make that note, I'd appreciate it.

1550

Mr Ouellette: Thank you for your presentation today. A couple of questions. What percentage of your organization actually live or work outside the GTA? It mentions the rural communities, but there are a lot of perceived rural communities within the GTA.

Ms Hurd: I don't know that for sure. Our representation is broad, though. We have had conferences each year. About 250 tenants come. They may not necessarily join our organization, but they are people we are in contact with. We have people from small centres like Kenora, Goderich, Hawkesbury.

Mr Ouellette: Are they directly affiliated with your own organization or are they associated with another one?

Ms Hurd: Yes, we have members. We don't have millions of members in each of those locales because there aren't millions of people there.

Mr Ouellette: Do you have any idea what percentage of homeowners actually live in the house they're renting?

Ms Hurd: Could you say that again?

Mr Ouellette: Do you have any figures that show what percentage of homeowners actually live in the houses they have other units in?

Ms Hurd: You're talking about absentee landlords?

Mr Ouellette: Yes.

Ms Hurd: Absentee owners? I don't have any statistics as to that.

Mr Ouellette: Okay. A couple of other questions. In your conclusion number 4 you state that "tenants deserve more service." Why do you feel that and what service do you feel they are deserving of?

Ms Hurd: For example, in high-rise buildings in a lot of urban areas, tenants pay for garbage collection on top of property taxes that are paid to the municipality. The

homeowner gets garbage collection services for their taxes. They don't have to pay anything extra. Tenants really rely on the services of the property standards inspectors to make inspections when there are complaints about serious safety problems in their buildings.

It's been my experience when I worked in a legal clinic and through working for UTOO that inspections are extremely hard to get. At one point when I was working in Scarborough, they were talking about charging for an inspection. It used to be a real process to get the property standards inspector to come to a building to inspect an individual's unit as well as the common areas of the building. Yes, tenants do use the services of the roads and other public services, but when it comes to specific services for their specific needs—

Mr Ouellette: So you think inspections should take place without charges?

Ms Hurd: Yes, they should be part of the tax—especially because tenants pay so much in tax.

Mr Ouellette: Okay. One of the other ones was under recommendation number 4. You state "That the provincial government adopt the position that tenants, as taxpayers and citizens, have the right to establish homes in any residential area of their municipality." We have elected councils in municipalities. Don't you feel they have the ability to make those decisions where they should take place, as elected officials?

Ms Hurd: This question came up two years ago too, about the independence of municipalities, and I've always supported that, but you don't support something indefinitely if the independence means they're going to stick with positions that run against the tenants' needs or the rights of tenants. For example, single-family dwellings: You have to rent the whole house or buy a house and that's it. The point I made the last time was if there's an enlightened policy and the provincial government is going to have to impose that to get that enlightened policy sort of into a level of government that is supposed to provide that decision-making, then that's where tenants will turn, they'll support that.

That's why I put in my conclusions that I want the provincial government to take the position that tenants have rights and go and push that position with the municipalities. It would be better if the municipalities could be persuaded to adopt non-exclusive zoning, but if they don't, and oftentimes—I think that's happened in the past—the provincial government has, through whatever conclusion it has come to, felt the need to impose things on municipalities, and possibly, following that, the municipality would see the reason and adopt it themselves.

Mr Hardeman: I was just wondering, when Bill 120 was introduced, it was introduced recognizing that there were a great number of basement apartments that were not inspected and were in fact not safe for people to be occupying. The legalization in Bill 120 was put in place to try and correct that problem. Have you got any figures or any idea how many of those present apartments that were there at that time are still not inspected?

Ms Hurd: No.

Mr Hardeman: Would it be a great number, or are we getting close to having them all inspected?

Ms Hurd: I'm not sure. This isn't something our group has been able to do a lot research on. We have

hardly any staff. If we were the organization we want to be and had the funds we want to have, we could do that kind of research. We could be preparing that kind of research for the purposes of enforcing enforcement. However, that's a little bit beyond our capabilities.

Mr Gerretsen: Just to follow up on that, I take it your association would have no objection to having the apartments registered.

Ms Hurd: This is something that came up in this legislation. Is that right?

Mr Gerretsen: Yes, that's right. See, there are two issues here: number one, who should have the ultimate control as to whether or not they ought to be there, the municipalities or the province; and secondly, whether or not there should be registration. I think just about everyone who has spoken in favour of allowing the homeowner the right to have a second unit has pretty well spoken in favour of registration except for one group earlier, and I've forgotten exactly which group that was. What's your view on registration?

Ms Hurd: I haven't had the opportunity to really look into it. I notice an organization that's followed this issue very closely, INC, Inclusive Neighbourhoods Campaign, doesn't agree with registration. We haven't had a chance to specifically look at that issue. We were mostly concerned about the rescinding of the legalization.

Mr Gerretsen: What's very interesting about this whole notion is that most of the arguments you've brought in favour of these units are usually brought up by developers or by people who aren't tenants etc. There is this tremendous fear that I sense from all the tenant organizations that the units are going to be built anyway. People are going to build the units anyway, in a clandestine manner, and quite often municipalities will have no control over it, and sooner or later we'll have to do what they did years ago with the Planning Act, where people were constantly disregarding the Planning Act and then the province would come along a year or two later and sort of certify that everything that had gone on before that was okay, and we'd go on another merry chase like that.

Is your concern that, number one, there wouldn't be too many units so your own tenants wouldn't have the same kind of choice and it would obviously have an effect on the increase in rents? Is that one of the concerns that your organization has?

Ms Hurd: No. The concern we have is that the people who live there can't resort to any—their protections are minimal, and because they feel insecure, they'll put up with illegal rents or—

Mr Gerretsen: That's if they live in illegal units.

Ms Hurd: Yes. In terms of supply, I mean, I've never thought of it as the ideal kind of supply. We were very unhappy with this government to stop the non-profit housing program, because it was to be affordable and addressing needs of the different groups within the tenant population. This isn't the answer, but as vacancy rates are dropping all across the province, this is providing some small amount of supply to a diminishing stock.

Mr Gerretsen: Did I misunderstand you? You said you were very much in favour of the government stopping the non-profit program? Is that what you said?

Ms Hurd: Oh, no, no, no.

Mr Gerretsen: No. Okay. I didn't think so.

Ms Hurd: No, I said I was very unhappy about that.

Mr Gerretsen: I'm sorry, I just misunderstood.

Ms Hurd: Given that's been undermined, and the landlords have not come forward with all their supposed offerings to build housing if tenants' rights are demolished, then where will it come from? It is slightly cheaper housing, so it makes it slightly more affordable than what might be put on the market, say, at full price or new construction, and it's fairly easily and quickly put on the market.

So it does have something to do with, first, legalizing what's there and then governing what comes after and, yes, bringing what's there up to standard. I don't know. It just seems so logical to me.

1600

Mr Hampton: I've asked this question of a number of senior citizen organizations and tenant organizations like yourself. If the government proceeds as it has indicated it wants to proceed, do you think there will be any reduction in the number of these apartments that are already out there? Do you think we will see fewer of them built, or will the market demand for this kind of lower-cost, lower-price housing continue to bring on more supply, whether it's regulated or not?

Ms Hurd: When the existence of these kinds of units came to my attention, it was I guess in the 1980s, and people continued to advertise. This is out in Scarborough again. They were illegal, people advertised them, people talked about them quite openly. I don't know that legalizing them and taking the legalization back again will stop that. I think it will continue.

It just really makes me very concerned that we're going to say, "Okay, we're not going to legalize any more," and we'll just pretend they're not there. People are going to go with what they think is a necessary—take a necessary step to create housing, either to help them with the mortgage or, you know.

Mr Hampton: So the market demand is there, there are, as I understand it, increasing numbers of people who, because of lower pay or because they don't have a permanent full-time job any more or by reason of other factors, will be looking for this kind of accommodation. The demand will certainly be there and the supply will be there, but they will be unregulated. We'll be back in the days of health and safety standards simply not being observed or certainly not being enforced.

Ms Hurd: Right.

Mr Hampton: Municipalities have always had it in their capacity to do something about the regulation, and the government members keep going back to that, saying, "The municipalities should do something." But what we've heard here today and yesterday is that municipalities have largely ignored these issues. They've largely ignored the fire safety, electrical safety issues associated with this kind of housing and accommodation. Why do you suppose that has been that way? Do you have a sense of why that's happened?

Ms Hurd: I guess it might not necessarily be that they've ignored those issues, but I think over this issue generally they're listening to so-called ratepayer organizations who just don't want certain kinds of people and

certain kinds of things going on in their very exclusive neighbourhoods. So they're the ones who are putting pressure on the municipalities to keep things the status quo. I'm not sure about whether or not they've neglected fire safety of that stuff, because I think everybody tends to find that there's just not enough inspectors when you need them or whatever, so maybe they can't cover every inch of housing, but—

Mr Hampton: At least you could make a complaint, though. When you officially recognize this housing market, it seems to me then a tenant can at least make a complaint and can raise the issue.

Ms Hurd: In an illegal apartment?

Mr Hampton: In a legal one.

Ms Hurd: Yes.

Mr Hampton: In an illegal one, the risk is you get kicked out or you're told you're not welcome any more.

Ms Hurd: Right.

Mr Hampton: What's the difference in assessment, say in Scarborough, between someone who has a legal accessory apartment, and therefore I guess would be assessed in terms of property taxes, and somebody who has an illegal one? In other words, their house is still down as a single-family dwelling and someone else's is down as a single-family dwelling plus accessory apartment. Is there a difference in how they're assessed, do you know?

Ms Hurd: That I don't know. I think when you do make changes or add to your house, there is some inspection that's supposed to be done. I get the feeling a lot of people don't report these things, whether it's about an apartment or not. But that I don't have information on.

Mr Hampton: I guess what I'm getting at is it seems to me that on the one hand you've got the health and safety of a whole bunch of people. All right? Let's assume there are in excess of 100,000 of these accessory apartments in existence around Ontario, mainly in urban areas, although perhaps not. It seems to me on the one hand you've got the health and safety issues of the people who live in those accessory apartments. It seems to me you have the potential for fire; you have the potential for other serious situations. You'd think municipal governments would take that seriously, and you'd also think the province would want to take it seriously.

On the other hand, you have the issues of, "I don't want certain types of people living in my neighbourhood," or "I want to run an illegal or unregulated accessory apartment but I don't want to pay any additional property taxes and I don't want to pay for inspection and I don't want to have anything else involved here." It just seems to me that there's a test here as to which values are more important.

Ms Hurd: Well, I don't know. The reason why I'm here is concern for the health and safety of tenants who are renting units that are being offered by homeowners and who need that housing. There are a whole lot of other issues that impinge on this, but the reason for my presence here is the concern for them.

The Chair: With that, I'll thank you both. We've exceeded our time. Thank you, Ms Hurd, for your representation this afternoon, for taking time to come down and speak to us.

KLAUS WEHRENBURG

The Chair: Our next presentation will be from Mr Klaus Wehrenberg. Good afternoon, sir.

Mr Klaus Wehrenberg: Thank you for allowing me to be present here. Since I am not part of an organization, I would like to start by introducing myself. Before I start my comments, I shall give you some background on why I'm interested in Bill 20.

While I was born in Europe and received my basic education there, soon after my arrival in Canada in the late 1960s, I got involved in land use issues, planning issues, and I haven't stopped. They were mostly local issues, but in the last 10 years I have taken an interest in provincial and national issues as well.

My involvements in Ontario's planning have included provincial appointments to the local conservation authority and to the citizens' advisory committee on the Oak Ridges moraine under Liberal and NDP governments. As well, I conceptualized and, with the help of others, organized a symposium on greenways and green space on the Oak Ridges moraine, an event that was attended by planners, developers and academics from across Ontario and that focused on alternative ways of balancing green space and residential development, obviously focused on the Oak Ridges moraine as an example.

To the dismay of the municipality, land developers and some provincial ministries, I also did not shy away from following through with OMB appeals, but they may rest assured that I do not like them any more than they do and I'm hoping never to have to be involved in one again.

In most cases, I have had to react, but always with proactive input, with suggestions for alternative approaches. That is what I intend to do here: to give you another angle on how to approach planning.

Let me now turn to my comments on Bill 20. First, some critique. The title of the bill suggests a focus on economic growth and on the environment. What about Ontario's social infrastructure? I'm leery of growth. In fact, I detest this preoccupation with more and better. To me, it looks like an illusion that you are chasing. On the back of my van I have a sign: "Wilderness is God." To me it is, and to the ecological balance in the wilderness, any economic growth often entails changing the status quo, to the detriment of wild animals and plants and to natural ecological processes—to our detriment as well, in the end.

1610

I recognize that we have to accommodate humans, especially in a land where immigration is spelled with capital letters. But is there a need for economic growth, or should it be for economic stability? Should we not also be concerned with social infrastructure that aims at stable social environments? Should that indeed not be a major focus in planning? You might say, "Yes, but it is," but why not focus on it in your title if you are going to have such a lengthy title anyway?

The "protect the environment" on which you do focus in the title of Bill 20 should refer to natural ecology, a term that implies a much more in-depth understanding of the interrelationships of natural processes and therefore

demand a different approach to planning than is indicated in the draft bill.

Enough of the critique and on with the proactive, the positive. This is where I would like to make my suggestions.

I would like you to become aware of what I consider a feasible physical framework within which planning powers could devolve safely and beneficially to the local levels of government, provided that local decisions will "be consistent with," and not "have regard to" a few provincially uniform ground rules. This framework involves placing all planning on a watershed basis so that each planning region's physical boundaries are determined by natural features.

Today more than ever, more and more people have lost touch with the natural aspects of their surroundings, aspects that were a part of everyday life only a generation or two ago. Today most people grow up in urban environments and are not aware of ecological processes and their significance to human wellbeing and survival. They do not live in nature.

This watershed approach to planning would reinject an element of the natural world into our day-to-day existence. To illustrate, this approach could be developed in conjunction with the current revamping of the greater Toronto area and the local and regional municipalities' boundaries would be redrawn to coincide with watershed boundaries.

The approach could be expanded to the rest of the province and could form one of the pillars on which planning in Ontario rests. After consideration of how the implementation of the approach could be staged, the approach could be incorporated in Bill 20, along with concurrent changes to other legislation, such as the Municipal Act.

While I readily concede that this approach involves a host of administrative and legal changes and related costs, the concept promises benefits that are hard to achieve any other way and they will entail cost savings in the future.

The watersheds, such as the Holland River in the area where I live—the Aurora-Newmarket area—and the Rouge and the Humber all have one common denominator: They have within them urban communities mostly towards or at the mouth of the river and rural components in the upper reaches of the river.

In the GTA model we are searching for just such a mix of development features or forms to allow the sharing of the advantages, such as a tax base and recreational opportunities, and disadvantages: cost of transportation and waste disposal. In the GTA we are also searching for ways to maintain community identity and already know that the currently proposed models are problematic in that respect.

While the watershed approach does not retain the focus on the smaller communities, it also does not artificially divide them. A community is generally connected to a stream or river, especially the urban nodes. Rural townships might suffer division, such as King township, but the residents' orientation towards one of the more urban nodes within the township will remain. Therefore, there might be partial disturbance of the community identity factor, but likely only of the one that relates to the

artificial township boundaries. I experienced that this latter factor was the less significant of the two during the 25 years that I lived in the country.

Obviously, these few remarks give you only an inkling of what an orientation towards a watershed model would offer. But the model does offer a planning alternative which could be incorporated in the draft bill even if it were only for staged introduction.

You will hopefully recognize that planning on the basis of an area with natural boundaries has these advantages over planning based on areas with artificial boundaries. Residents can relate to areas related to rivers and streams over areas that have no boundaries with a common denominator. From that springs the sense of community identity. People belong to something they can readily express and which they can see and experience. Residents would start to care for the cleanliness of their air, water and land and could be motivated to relate to how the conditions of these basic elements of life could be maintained or enhanced.

The approach presents an option that would allow for a considerable shift of planning responsibilities from the provincial to the local level without the risks that are related to artificial community boundaries. As stated earlier, if minimal provincial ground rules were put in place and enforced, then planning could become better understood, could be a more natural part of our lives, would be less complicated and above all would be less confrontational and hence more efficient and less costly.

With planning professionals working at the local levels and public confidence in the planning process restored, perhaps the planners could then act to plan for the community rather than react to plans initiated by an individual. You have an opportunity to lay the groundwork for a real planning alternative. Would you ever serve the people of Ontario if you did that. Thank you.

Mr Hoy: Thank you for your presentation. I also noted that the first words in the bill were "An Act to promote economic growth"; the government has had a desire to put the words "economic growth" in a number of bills that I've looked at lately. Of course, there may be other issues involved, but "economic growth" is always something they put forth first.

You talked about common interest of communities or of a community. I've had presentations made to me under Bill 26, and perhaps under Bill 20, that there could be an encroachment or a disintegration of the common interest within a community or within a number of communities and I think you've touched on that here today. Are you concerned that the two bills together could be harmful to communities?

Mr Wehrenberg: Bill 26, the way I understand it, and I didn't look into all the details of it—we didn't have time to do that, so I didn't bother making comments on it—gives governments, ministers, pre-emptive powers. Especially the Minister of Municipal Affairs can do certain things and he is going to call the shots, basically.

My concern in general has been that what we are attempting to do in the GTA, and obviously we have to consider elsewhere, is going to be fought all the way by the communities because they're going to be told that they have to amalgamate artificially with others, and this

is all on artificial boundaries; that's why they can't relate to any of this stuff. There is nothing in common between them. But they have to amalgamate in order to get a vote around the GTA council table, basically. That type of thing is in the making.

1620

The communities don't want to be torn apart, but by the same token there is a lot of acceptance of the need to restructure local-level government to get efficiencies out of the system. The efficiency I think could come from having a local body of government that has some form, that has some presence in people's minds; like, they can say, "I'm from the Holland River area" or "I'm from the Humber River" or "I'm from the Nottawasaga River." We could all relate to that. We all know a piece of the Nottawasaga, we know a piece of the Ganaraska and so on of the river systems and we know basically where it belongs. We then have people speaking to something that they all have in common, and we have a mix of people: We have rural elements and we have urban areas.

We have a concern I think in the whole township, then, or watershed or whatever you want to call it later on, for instance, about how waste is going to be disposed of and how much of it they create, how it will affect their water and so on. They can control these things, because it is always in this ecologically cohesive land base in which they live. So you're going to get some interest from the community, because at all times when we talk about planning they will relate to this because they are part of this and they can have an influence and they can point to something.

These environmental issues, the environment development conflict, has pulled us apart. It has created nothing but acrimonious relationships. It has used up time. It is still not being resolved, it won't be resolved by this act and it won't be resolved by the GTA boroughs. That's one of my concerns. I think we need to get to terms with this but we have to make a big leap. There's no doubt that what I'm presenting here is something that takes a little bit of political courage. This is not something you can just pull out of the bag and say, "Well, we're going to do this tomorrow." No, it takes commitment and some real looking into, how you best restructure the whole shebang. We are not going there now. We are not going to resolve the GTA.

Mr Hampton: You're advocating something that I think a lot of the biologists who work within the government also advocate, the move to ecosystem-based planning, watershed-based planning. So let me ask you bluntly: Do you think this legislation and the policy statements that go along with it will lead towards watershed-based planning, will lead towards ecosystem-based planning or will lead in another direction?

Mr Wehrenberg: No, they will not lead there; this is obvious. In fact, the whole framework isn't there; it's not in place now and there is no hint in the legislation that this is the direction that the legislation should move. My concern, naturally, is that we also have taken away from Bill 163 basically something that we really hammered out in public meetings and it was talked about and there was the development industry and there were the stakeholders. They were all in there and there was democracy to some good degree.

We have taken away the capacity, I think, under the new legislation, under Bill 20, to address these ecological connections. Corridors and so on have been taken out of the policy statement, the concern for corridors. The municipalities have to "have regard to" or the developers have to "have regard to" policy statements. But it isn't sufficient. As I said in this documentation, we need to have some ground rules at the provincial level that all planners have to worry about, all people, all private and public interests have to worry about. If we don't have them, then we don't have any provincial interests that can be paid attention to.

If I'm going to have to stand there, as somebody who intervenes in the planning process, and gather up the expertise to show that a planning proposal has no "regard to," and then have policy statements that are equally wishy-washy, in a way, there's no way I can be involved in it. My nerves won't hold out. I did two OMB hearings, and I had to put them on the mat to be able to get my word across. You just cannot keep up this type of work, as an individual. This is what is expected here. When you have policies or when you have acts that are not precise, you then have to argue your case, but without professionals you'll go nowhere, absolutely nowhere.

I haven't got the means and the resources to garner these professionals, and not the time, under the new rules. Ninety days? Give me a break. Ninety days for an OP amendment that can have vast influences on the future of the community? There is no way I have the time. I wouldn't even attempt it, because I would lose my credibility overnight, just like that. Every time I'd go in front of the public, they would say: "Well, what the hell is he talking about? He can't talk about it, because it's not in there." So I'm dead from the word "go." There's no point in wasting my time. I've had too much experience in this. I won't do it.

Mr Hampton: This is an issue we're having some debate over. You've come as someone who is interested in environmental protection, and you're saying that this would not leave adequate guidelines, the policy isn't there to work with, the policy statements aren't there to work with.

One of the things we heard yesterday, though, from Mr Sewell, who headed up the Sewell commission, was that the government believes that by doing some of these things they'll move through the process more quickly. Mr Sewell was of another view. He said, "No, it won't move through the process more quickly, because anyone who does have a stake, anyone who does have an interest, will find ways to argue about something, will find ways to tie up the process and will find ways to simply create a number of issues around the vague language and so on." What's your view?

Mr Wehrenberg: There are two angles to this. One is what I've just expressed, that the average citizen won't even bother getting involved any more, anybody who is worried about his credibility. As an environmentalist, you are worried about your credibility, because without it you have no stock-in-trade. When I see what is in front of me, I assess what chances I have of arguing this case successfully. I can lay off there, because what I see in front of me with Bill 20 and the policy statements will not allow me to be credible, to remain credible.

The other angle of that is that if I do in fact feel superstrongly about this and I gather up maybe other organizations where we can tie together, we have a coalition or something, then we will fight and we will try to convince. But then this fight will drag on. There's no doubt about it that we're going to have arguments over arguments, and there will be all means used to drag this in one direction or the other by both sides. There just isn't the ammunition there for either side to be precise about this, and therefore we are going nowhere and you will in fact delay the process.

Now, the 90-day period, I'm not too sure how that is going to work. My suspicion is that there will be deals cut, before it ever gets to the official introduction of the application, that will enshrine positions before the public ever gets in on this. If that happens, then the public isn't going to be served by the Planning Act, period. There are going to be structural deficiencies in there that are working against the public interest, and that's all there is to it.

Mr Hardeman: Good afternoon, and thank you for your presentation. You mentioned the issue of Bill 26, the restructuring process and looking at municipal boundaries and so forth. In a number of discussions that I've had with municipalities, they find it difficult to put an outer line on the area that they should be looking at for restructuring. Is it fair to assume that in your presentation you think an appropriate way of looking at that would be on a watershed basis as opposed to the present municipal structures?

Mr Wehrenberg: Yes.

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Mr Hardeman: Secondly, would you go so far as to say that a reasonable size of municipalities would be somewhere in the neighbourhood of the present areas that conservation authorities cover, or do you see that as needing to be split up?

Mr Wehrenberg: Split up? I have hesitations about it on a subwatershed basis where the watershed is awfully large and very populated. Maybe you can split it up on a subwatershed basis, but we could also think in terms of putting other watersheds together. I'm not saying that you should stay always with one watershed or with two. The Humber watershed is quite a substantial—a very odd shape, in a way. But nevertheless I think you might—that may be the outer limit of what you can put in one bundle. I haven't looked at all the details. There are umpteen watersheds tying into Lake Ontario, for instance, and others into Lake Simcoe and so on, and you have to analyse. In the north you might have to go on quite a larger area, meaning that you have to look at a dividing line that includes several watersheds.

But, yes, in basic terms, I think in a way it can move you politically away from having to deal with this infighting that's going to take place at the local and regional level, like the turf protection and all this type of thing. I think you have an out and it is a very feasible out. There isn't anything ulterior about it. It is an option that you can pursue and that I feel has a lot of validity to be considered at least, to flesh out and to maybe get into a study of it or something, I'm not too sure, before you actually incorporate it.

Mr Baird: Let me first just say we're always pleased to have anyone come before us, but I'm particularly pleased when I see individual citizens just coming forward to express their own concerns and feelings on issues. I think you mentioned at one point, if we had more concerned citizens. I think you're certainly a good example of that so I'd commend you on that.

One issue that seems to be pervading public policy areas at all levels—it's certainly part of this bill—is the issue of local autonomy, decentralizing. The federal government's talking about doing it to the provinces. The province here in Ontario has definitely talked about that direction, particularly reflected in this act.

Someone said that giving municipalities more decision-making authority means giving planning and development decisions where they can be made closest to the community. What do you think of that and how does that relate to your experience in environmental issues?

Mr Wehrenberg: I say in part of my paper, towards the end, that in effect I expect the watershed local municipality, as it were, to have the necessary professional staff to be able to cope with professionals from both sides. I think if the watershed local level is large enough, you can afford to have some staff. We used to have a combination of staff at the planner. They had some expertise in this and that and they made a plan with no problem. They had certain expertise in planning. But at the conservation authority we had the flood control people, the experts, and we had the Ministry of Natural Resources, we had the Ministry of Environment.

All of those professionals would be, in my view, attached to the municipalities at this point, provided there are some overriding provincial interest guidelines that have to be fairly firm. If they are not firm, then you are skidding right off the bat. But as long as you have a large enough municipality, you can afford to have on staff professionals who can be trusted by the public and they will in fact at all times be detached from the political influences.

The larger the municipality gets, the more detached they would be. The lower down you go, the smaller you go, the more attached they are to the political influences on a day-to-day basis.

Mr Baird: That could be said for this bill and any other. I agree.

The Chair: Thank you, Mr Wehrenberg. We've reached the end of our allotted time and really appreciate your taking time to make a presentation before us today.

Mr Wehrenberg: I apologize for not giving you a copy. My computer printer broke down last night, and I had relied on it. So you can have this copy to make copies from I think, if you need it at this stage.

The Chair: Thank you very much.

MUNICIPALITY OF METROPOLITAN TORONTO

The Chair: With us next, the municipality of Metropolitan Toronto, Metro planning. Good afternoon, gentlemen. We have 25 minutes available to us this afternoon. It's up to you to decide how much time to take for your presentation and how much for question and answer.

Mr David Gurin: We'll be concise. I'm David Gurin. I'm the deputy commissioner of the planning department

of Metro, and with me is Chris Burke, my colleague in the planning department. Also with us and observing is Wendy Walberg from the Metro solicitor's office.

You have received, I believe there was just distributed to you, a Metro council position on Bill 20. It was actually passed about a week and a half ago and sent to the Ministry of Municipal Affairs. I think it may not have reached you, but now you have it and I am substantially going to outline that for you. So I'm very much in sync with what you have there.

I think our response is very much in keeping with those from other regional municipalities, but I think that to understand Metro's special perspective on Bill 20, it's important to understand that Metro is unique in at least two ways with regard to this legislation.

First of all, it's the only fully urbanized upper-tier municipality and therefore most development that takes place within Metro is in the form of redevelopment rather than what's known as greenfield development. We don't normally start afresh; we start from something that was already there.

Second, it's the only upper-tier municipality without approval authority for local plans. This is, in our view, a gross anomaly and it's one which we hope will be corrected by this government.

Let me outline Metro's responses to Bill 20 in five different areas: First of all, the question of approval authority, which I've just mentioned; second, the status of official plans and their relationship to policy statements; third, provincial involvement in municipal planning—and I understand very well that the thrust of your legislation is to try to decrease that; fourth, reliance on the OMB—and I think you would like to decrease that kind of reliance because of its cost as well; and fifth, Metro responsibility for the provision of infrastructure.

Let me go back over those. First of all, the question of approval authority: I cannot emphasize enough the degree to which we think it is counterproductive and expensive not to give Metro the same approval authority that is given to all the other regions. The province continues to assign all upper-tiers and counties the ability to approve official plans within the regions, except Metro.

The advantages of assigning regional government the right to approve local official plans have been recognized by the province. It expedites the development review process, it resolves disputes to avoid costly OMB hearings and it reduces provincial entanglement in municipal affairs. So as one of the conclusions council-passed material that we have in front of us is that once again Metro council requests that Metro be assigned approval authority.

Second in the list of things I've mentioned is the status of official plans. Bill 20 proposes to delete subsection 3(8), which was added through Bill 163 to provide for official plans to be deemed consistent with provincial policy statements. This provision is very important to limit recurring challenges of approved official plan policies and other approvals. So Metro council requests that subsection 3(8) be retained with the necessary modification so that it reads "to have regard to" the provincial policy statements.

In other words, we don't want to see any challenges because people, after there's an approval of an official plan, then go back to provincial policy statements. We regard the approval of the official plan as embodying the provincial policy statements.

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Third, the provincial involvement in municipal planning: Again, you would like to see this minimized and that more local responsibility is embraced. The proposal to provide for exemption of official plans and amendments might be useful to an upper-tier municipality with approval authority. Without this, in Metro the minister would be the one making the exemption decisions instead of Metro council or the regional council making the exemption decisions. So the ministry would then be in the business of defining Metro interests and determining Metro official plan conformity, thus increasing provincial involvement in municipal planning matters rather than doing what your stated goal is: to decrease that involvement.

The lack of limits placed on the minister's exemption authority could result in a far more adversarial process in Metro, leaving the OMB as the only recourse for Metro council. This goes counter to Bill 20's goal of municipal empowerment and streamlining the process. We believe that this would be resolved if Metro is assigned approval authority so we could then deal with any kinds of exemptions as well as all other matters in regard to official plans within our region.

The fourth item I want to speak to is reliance on the Ontario Municipal Board. Perhaps other speakers earlier today have addressed this. We think that the referral system has worked well in allowing approval authorities the opportunity to resolve disputes. Dispute resolution is a method, a subject matter that many people have put under the microscope of late. It's always best, as you know, to try to bring the disputing bodies together, the people who are engaged in a dispute, rather than have them go into a legal proceeding.

The process of referral has worked very well, because a significant portion of matters are resolved without being sent to the OMB, and we would urge you very strongly to continue this process of referral and to save disputants having to go to the OMB. Not only does it solve going to the OMB, but through the referral process, the scoping down of objectives means that when things do go to the OMB, only very specific issues may go rather than the entire matter, and this saves both public and private costs related to the OMB.

If in fact you choose to replace the referral system with appeals, you will make the development process more adversarial and time-consuming and this will result in greater provincial involvement in local planning matters through the OMB. It will also result in significantly greater costs to municipalities and to proponents and to the province due to increased OMB costs to resolve disputes. So Metro council does request that the referral system be retained for official plans and official plan amendments.

Last, Metro responsibility for the provision of infrastructure: Metro and other regional municipalities are responsible for providing significant public infrastructure,

including water and sewer systems, waste management and arterial roads. Metro has to be able to get the most efficient use of its infrastructure investment to save taxpayer dollars and to support its objectives to attract development into the existing urban area. We call this reurbanization; you might have heard it referred to as densification. The notion is that by trying to get development where infrastructure already exists, a great deal of money is saved.

Two provisions in Bill 20 may make this difficult: First, by removing the appeal of local minor variance decisions to the OMB, Metro may be left in a position of being unable to protect its infrastructure interests; and second, the lack of means to sunset rezoning as is done with plans of subdivisions, and we think wisely, in Bill 20 to allow for reallocation of unused infrastructure capacity when the approved development does not occur. In other words, sometimes zoning does give out development rights and those can go up to a certain cap of what infrastructure will allow, but if those are unused and there's no sunset provision, that will prevent other developments from going ahead.

So Metro council requests, first, that provision be made to permit upper-tier referral of lower-tier minor variance decisions to the OMB; and, second, that municipalities be empowered to provide for the lapsing of rezoning approvals after not less than five years, thereby permitting allocated infrastructure capacity to be reallocated to develop when it's ready to proceed.

That's the end of my testimony. However, I would like to ask my colleague Chris Burke to add anything if he feels there's anything in addition that ought to be brought to the attention of the committee.

Mr Chris Burke: The only thing I wondered was just to be sure that all of the members understood what the referral system is. It essentially is a system whereby the approval authority in Metro's case is the Minister of Municipal Affairs; in other regional municipalities the approval authority is the regional municipality itself for the local plans. It's a system whereby people with objections to a plan or to an amendment can ask the approval authority to refer a particular part of a plan or amendment or the whole thing to the Ontario Municipal Board, but that approval authority has the discretion in terms of the timing that it takes to send the matter to the board. If it feels that it can indeed scope down the issue or resolve the dispute without sending it to the board, it has the discretion as to when it actually sends the matter to the Ontario Municipal Board. Under the proposal of Bill 20, the direct appeals system, the approval authority would no longer have that role.

Ms Churley: Thank you for coming to present your views today. Were you consulted by the government while it was writing this bill?

Mr Burke: My understanding is that the regional planning commissioners were consulted through the Association of Municipalities of Ontario.

Ms Churley: So through AMO.

Mr Burke: Through AMO, but not directly.

Ms Churley: It's just that Metro is huge and, as you pointed out, just different from municipalities. Some of it can have different impacts on you.

Mr Burke: Yes. We weren't consulted directly, but indirectly.

Ms Churley: Right, just as part of the whole AMO structure. So you weren't given any opportunity to voice your concerns, that's what I'm trying to get at. You saw no draft or were not told what might be in the legislation beforehand.

Mr Gurin: Not directly.

Ms Churley: So you had no direct input.

I should probably know this, although my stint at city council was very short. I can't remember the historical reasons why Metro Toronto approval was not granted for approving an area or municipal plan. Can you just remind me of that? Is there some kind of turf war thing going on here? Am I suspecting that or is my suspicion correct here?

Mr Gurin: In my tenure, it's been asked for consistently. As for the original reasons why it was not given, I'll call on Mr Burke.

Ms Churley: Did the city of Toronto object? There must be some other reason.

Mr Gurin: There have been some objections—I don't know how officially they were ever made—by the area municipalities, yes.

Mr Burke: I do believe that some of the reasons were from the concerns expressed by the area municipalities. We believe that it's partly due to a lack of understanding as to why Metro would have the approval authority. It's effectively not simply to tell the local municipalities what to do but in order to be able to better resolve issues within its area, as the other regional municipalities are doing.

When Bill 163 came forward, Metro did come to a similar hearing as this one today and the same question was put by our chairman, Mr Tonks. I do recall watching that on television and seeing the answer as being, "The government is trying to deal with the whole greater Toronto area, so we're not changing anything in Metro." Yet we seem to have had no problem changing matters in the other regions, even though there's a greater Toronto area exercise under way there as well. The same reasons for the regional municipalities dealing with approval authority, in being able to come up with the efficiencies in the local area, apply to Metro as well.

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Mr Smith: Earlier today we heard a presentation from the Canadian Bar Association and it dealt in large with a number of legal terminologies. As part of their presentation they expressed concern, or perhaps "opposition" would be a better word, to that provision in the bill that allows the municipality as a condition of site plan approval to require the applicant to convey land for public transit rights of way. On page 4 of your report you indicate that you're an advocate of that type of provision. Perhaps you could share with the committee why you are proponents of that particular position, by comparison with what we heard from the bar association.

Mr Burke: I think particularly within an urban area, where most activity occurs through redevelopment, very often the site plan process is the point at which these kinds of matters can be dealt with. There already was in the legislation the provision for road rights of way to be gained through this mechanism and I believe through Bill

163 the public transit aspect of it was provided to regional municipalities. It's the local municipalities themselves which actually administer the site plan process, so it makes sense for them to also be able to exercise this authority. Secondly, in a number of municipalities the transit authority is actually reporting to the local municipality, so that it would be the local government that would have the responsibility for transit matters.

Mr Gurin: I just think it's a matter of really basic and elementary planning. The market cannot conserve. It can do all kinds of things, but it cannot conserve. Rights of way are one of the things that planners can make provision for, and that's a good device.

Mr Hardeman: Going back to the comments made by Ms Churley about the consultation with Metro directly as opposed to other segments of organizations, you said they met with or discussed the change with the regional planners?

Mr Gurin: I understand they met with AMO, and there was an organization of the regional planners of Ontario that is represented on AMO.

Mr Hardeman: I would like to go on then. You also mentioned the comment about the consultation for Bill 163 and being told that things were going on in the Metro area and that's why they were being excluded from the changes. That is true today. Could you tell me how many of the changes in Bill 20 would directly impact Metro today? How much of the change is actually applicable to Metro as opposed to the rest of the regions?

Mr Gurin: I could say that there are some which might not apply to us, but most of the more important ones will apply across the board; for example, the issues we brought up, where we fear increased disputatiousness, an increased problem of going to the OMB rather than the deferral process. That applies to us as it would to any municipality within Ontario. There may be some matters which don't apply to us, but I think the great majority do. Would you concur with that?

Mr Burke: Yes, and I believe that, as requested, one is the effect of the exemption of official plans, and that's because it's putting the power to exempt local official plans and amendments, or portions of them, in the hands of the approval authority. In all other regions, that therefore puts it into the hands of the regional municipality. In the case of Metro, the approval authority is the minister because it hasn't been assigned to Metro, so it creates a different set of issues within Metro than for the other regional municipalities.

Mr Gerretsen: I'm curious about all these questions about consultation. I wouldn't like to see consultation take place just with one group and not with another. All the municipalities across the province recognize the fact that Metro is by far the largest but they are the same, and I think there's always been a feeling outside of Toronto that there's too much consultation directly going on between Metro and—

Ms Churley: Not with this government.

Mr Gerretsen: Just a minute now—and the city of Toronto and government traditionally, governments of all stripes.

Just so you can educate me more than anything else, you haven't dealt with—or if you have, I've missed it—

the apartment unit issue. Is that not a Metro issue? Is that a local municipal issue for the city of Toronto?

Mr Gurin: Well, it's both. Our official plan does allow for apartment dwellings.

Mr Gerretsen: But do you take a position on whether it's a good or a bad thing to exclude them, or to bring it down to the local level?

Mr Burke: No, council did not take a position at this time. The report that was taken forward was largely on the Planning Act changes of Bill 20.

Mr Gerretsen: I see. What about the committee of adjustment? Does Metro have a committee of adjustment, or is that a local government?

Mr Burke: That's a local responsibility, which is the gist of the comments on minor variances with respect to infrastructure spending.

The Chair: Thank you very much. We appreciate you taking the time to make your presentation today.

ORLANDO CORP

The Chair: Our last presentation of the day is the Orlando Corp. Good afternoon.

Mr Phil King: Good afternoon. Thank you, Mr Chairman and members of the committee. My name is Phil King, with Orlando Corp. I've provided you with a point-form summary of the presentation I'm going to make this afternoon.

Orlando Corp is a privately owned development company specializing in industrial-commercial development. Orlando has been in existence for over 40 years and it's evolved into a fully integrated development company. We are well known for the development of controlled business parks, the latest being a 1,200-acre development at Highways 401 and 10 in Mississauga called Heartland.

We currently own and manage over 24 million square feet of industrial and commercial properties. Our integrated services include the assembly and development of land; design and construction of industrial-commercial buildings as our own contractor through design-build projects; ownership of the properties, and property management. Provision of these services has made us a one-stop shop for industry wanting to expand, and has resulted in us now being one of the largest companies of its kind in Canada. Companies like ours are at the foundation of industry, business and employment in Canada. We create places of work and employment, and our competition is not local, it is international.

Industry comes to Orlando because of its ability to provide facilities on a fast-track time frame. To do this, we need the cooperation of government to bring land on stream and provide the various municipal approvals in a quick and efficient manner.

Bill 20 provides the framework for municipalities to assist industry by reducing red tape and bringing land on stream and business to this province. We support the general direction this government is moving in by trying to reduce the time and cost of developing land for business.

We support Bill 20 with particular reference to reduction in time frames for processing of planning applications; the absolute right of appeal; using the Ministry of

Municipal Affairs and Housing as the clearinghouse for applications; to eliminate further duplication by deleting the requirement for public meetings for plans of subdivision due to adequate public consultation still being required where areas for land use is really determined, ie official plans and zoning bylaws; the clarification of what "prescribed information and material" means and when the trigger for the required time frames kicks in; also, maintaining the OMB and the inclusion of alternative dispute resolution approaches.

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There are, however, some areas of concern that we request this committee to address:

The absence of property rights protection and compensation principles for land taken or sterilized. This issue is of grave concern when talking about buffers to significant wetlands and other environmental areas. In some instances, land holdings may be completely frozen or considered undevelopable.

The ability to take land for public transit rights of way without compensation. Public transit rights of way are services provided for the population in general, and it is unfair for specific land owners to contribute more than their fair share. Both of these items fall under the heading of expropriation without compensation.

Minor variance applications being appealable to municipal council rather than to the OMB. This is a concern for two reasons: (1) It will not remove politically motivated decisions which will be based on local motivation rather than planning issues, and (2) frivolous appeals will be in abundance due to the lack of preparation required to appear in front of council rather than the Ontario Municipal Board.

Appeal rights for changed conditions on subdivisions and consents. The decision regarding approval has already been handed down and should not be reopened due to a change in a condition. The decision has not changed. Frivolous appeals would result in unnecessary delays and a minor change in the condition of approval should not open up the whole process for appeal.

As a general point, we request that the provisions of the act be made clear to all government bodies to ensure that the confusion that currently exists between the old and the existing Planning Act does not continue, especially in light of us having three planning systems in effect.

Dealing with Bill 20 is a major step forward in trying to assist the kickstart of the economy by removing unnecessary red tape from the current planning system. However, as we fix one part, other impediments to growth emerge. These issues are directly related to economic growth and the development of industry in Ontario and resulting employment, and if not corrected will remove any benefit that Bill 20 generates.

These issues are primarily business concerns and can be resolved by amendments to the Assessment Act, amendments to the Municipal Act and Education Act and amendments to the Development Charges Act.

We're not dealing with increased profits to development companies; we're dealing with survival and our ability to continue to attract business and employment to this province. For business to be competitive we need changes.

Recent court cases have caused a significant appeal process being implemented by municipal governments to increase the level of realty tax on vacant industrial properties that are zoned. It's grossly unfair for a municipality to be able to tax vacant land at the full industrial rate just because the land is zoned. This approach will result in municipalities becoming owners of land due to non-payment of taxes and/or drive up the cost of land to an uneconomical level. It will also severely restrict the availability of land which is zoned and ready to go, because developers will not pre-zone lands due to the high tax cost and hence carrying costs.

Already the cost of taxes, levies and hard costs exceeds the sale price of land. Unless we change the system, industrial development will cease. This can be illustrated in the two examples attached to the brief I supplied, one dealing with the cost of land and sale price, and the other dealing with the tax differences with respect to vacant industrial land.

We believe an amendment to the Assessment Act is needed in conjunction to the passing of Bill 20 to resolve this issue by permitting recognition of when lands really become industrial, and that could be used for industrial purposes. Zoning alone is not the trigger.

Another measure that would assist new business is to stop placing the burden of cost solely on new businesses. With respect to education development charges, this can be achieved by revisions to the Municipal Act and the Education Act to permit school boards to put the non-residential education development charge component on the overall tax base.

Currently, education development charges will apply to only new industrial and commercial buildings. However, there's no relation between new industrial and commercial growth and new pupil places.

With respect to the non-residential sector, all business benefits from education, and not just new business. The boards of education in Peel, the economic development department of the city of Mississauga, the boards of trade and the development industry support an alternative which removes the burden of education development charges on new growth and spreads the impact over the much larger non-res assessment base. Amendments are required to remove the 85% relation between residential and non-residential mill rates and the Education Act to permit this alternative.

The third item is development charges, and we know this government is currently looking at the Development Charges Act, so I'm not going to get into any discussions on that, just that we will obviously be involved with UDI in future discussions on that issue.

Thank you for the time. That's my presentation, and I'd be willing to answer any questions.

Mr Galt: Sorry, I came in in the middle of your presentation, but I'm interested in your item about property rights and compensation for land taken. This was certainly a great concern during the campaign, particularly by farmers. I wonder if you would expand on some of your feelings. This morning it came out, and I had not picked up on it previously, that possibly we're in a position whereby woodlands would end up in a similar situation. I'd like to hear more of your thoughts in this general area.

Mr King: I can give you an example, which I think is the easiest way to explain this. We had control of some land in Scarborough, adjacent to one of the tributaries of the Rouge Valley, and the Rouge River park plan identified significant buffer strips adjacent to the environmental area. We're not talking about the environmental area itself; we're talking about the buffer strips adjacent to it.

Mr Galt: The 150 metres.

Mr King: Yes. That would have sterilized a 100-acre piece of land because of a tributary to the Rouge River running through the middle of the property, and that park study did not address any compensation for sterilizing or taking that land. The municipalities weren't looking at actually acquiring it; they were saying, "You just cannot develop on it." That's an example of the concern, and that can happen against woodlots, against watercourses and any other environmental area. That's the concern.

Mr Galt: The story you relate here has been related in my riding many, many times over, and it seems very unfair, as a result of Bill 163.

Mr Hardeman: Near the end of your presentation you referred to the Development Charges Act, that it was being reviewed, but just prior to that you were indicating that we should allow the development charges for education to be spread in all areas. It would seem to me that there is a connection between the two, that the review of the development charges, particularly where the development charge on education now sits—I would presume that spreading over the total tax base would not be done until the review of the total Development Charges Act was completed.

Mr King: It may be. The situation, as you may be aware, is that we've just had education development charges passed in the region of Peel, so it's a situation that exists today. Through our presentations to the schools, we put forward this alternative and had the support of industry and the boards of trade. They were willing to look at that alternative, because they recognize that they don't want to stifle new industry because of its benefits on the tax base. But we could not use that alternative because the Municipal Act and the Education Act wouldn't permit it. The Development Charges Act gave them the right to put these things in place or not, so it wasn't the Development Charges Act that was the issue; it was the other two acts. I brought this up today because of the concerns that all run together about the costs of development, especially upfront developers.

1710

Mr Hardeman: I have one further question on the environmental areas that you refer to, somewhat from the opposite direction that my colleague comes from. Have the environmental areas that need protecting because they are a provincial interest not always been a provincially significant area, with the developer knowing in the purchase that the ability of that land to produce was the purpose that it would be designated for?

Mr King: Whether the actual area was provincially significant I don't think is the issue. I don't think we are concerned with the actual environmental area that would be running through the property. It's the extent of the buffer that's adjacent to it and how that is treated, as far

as not being able to be developed or restricted in development considerably. We're not saying to get rid of the environmental areas; we're just concerned with the buffer, and some of them can be pretty significant, effectively wiping out a piece of land.

Mr Gerretsen: You're obviously a believer in property rights and that a person should have as many rights as possible as far as their own particular property is concerned. Am I correct?

Mr King: Yes.

Mr Gerretsen: Do you not think it's rather unusual then that this act would include a clause by which, in effect, the right to have a basement apartment has been excluded? I know you didn't make any comments on that, and probably as an association or as an organization you don't have any interest in that, but does that sound consistent to you?

Mr King: Having the right for basement apartments? We're not residential developers, so we've never come up against that situation. I'm not really qualified to comment on that.

Mr Gerretsen: Well, anyone can have a basement apartment now by right, provided you meet certain health standards etc, and that has, in effect, being taken away in this act and it's being referred to municipalities to deal with. Do you think that's somewhat inconsistent?

Mr King: I'm sure there are people that will be speaking in front of this committee that have a hell of a lot more basis for a discussion than I do, I'm afraid.

Mr Gerretsen: I see that you support the deletion of the requirement of a public meeting for plans of subdivisions.

Mr King: Yes.

Mr Gerretsen: As you well know, there are usually at least three parties involved: the municipality, the developer and the immediate neighbours. Being reasonable about it, don't you think it's somewhat unusual to require a public meeting in the case of a committee of adjustment dealing with a minor variance?

If this were implemented the way it's suggested, we've now got a situation or we will have a situation where a public meeting would not be required for something that's usually of a much larger scope and nature, namely, a subdivision. I realize that the land is zoned for that, but if you were an immediate neighbour to that, would you not want at least to have some input into how that subdivision is to be developed?

Mr King: I think the neighbours do have considerable input under the process without public meetings for subdivision.

Mr Gerretsen: How?

Mr King: Through the zoning bylaw and through the official plan.

Mr Gerretsen: But that's quite a bit different, though, because in a zoning bylaw you don't really deal with the particular layout of the subdivision or how exactly it's going to be implemented.

Mr King: The only thing that it probably won't show is where the internal roads go, but it certainly does show all of the different zones that are applicable and what uses are permitted on the land. I think the draft plan of subdivision is really the technical side of how to implement the zoning bylaw and the official plan.

Mr Gerretsen: But that could in fact be quite different one from the other, could it not?

Mr King: I don't believe so. I think that the zoning bylaw and the official plan is where the land use and where the concerns of neighbours, and also the site plan approval that deals with issues that come along later on—the public has considerable input into all of those areas. I think it's just adding an extra area that's not required, just adding more time.

Mr Gerretsen: I guess you and I will disagree on that then. But would you not agree that the real time delays are not so much the specific time periods that are talked about in the act, but rather the length of time that a council or a planning department or a ministry deals with a particular application?

Quite often there are time periods set out for that. As you and I well know, these time periods quite often aren't adhered to because of workload demands and one thing or another. It's really the administrative time requirements that take the time and not so much the legislated time factor. Would you agree or disagree with that?

Mr King: In a certain way I think that what this act does is permits the applicant to refer the application to the OMB if there really is not any progress on that file. I think most of us—I'm not saying all, but most developers—work with the municipalities and, provided the thing is moving along, there won't be a proliferation of appeals to the OMB because a certain time frame isn't met. But there are instances where a municipality, through political issues, will not deal with an application. It's in those situations where these provisions and the stipulations for the time frames will help.

Mr Gerretsen: But I guess my point is that the extra time that is required for the public meeting really isn't that—the word escapes me. But that really doesn't add all that much time to it; it's all the other time delays that do.

Mr King: If you're adding an extra public meeting and all of the issues that would have to be addressed after that—in a lot of instances, you're dealing with duplication. Still have the public meetings but deal with these issues at the zoning bylaw.

Mr Hampton: I want to take you back to your comments about the Rouge River Valley. Park planning there has been going on for some time. As I understand it, the Rouge River is one of the most significant watercourses draining into Lake Ontario that still has some wilderness territory attached to it, still has an opportunity to be preserved or maintained as some sort of parkland for Metro Toronto. You were talking about the protected strips along the side of ravines and so on. Is it 150 metres?

Mr King: They range, it depends. In some areas it may be 30—

Mr Hampton: The size and significance?

Mr King: Yes. In some areas it may be 100 and in others 150. It's not the quantum, it's the principle, I think, that we've got a concern with.

Mr Hampton: So you're not talking about that these are excessive?

Mr King: No. If it's deemed that the protection of that environmental area is required and it does require to sterilize these areas, it's the compensation to that individual owner. If the benefit is for the whole population, why

should that one individual owner carry the burden of that? If it's deemed by government that that's something they want to protect, then it should be paid for by everybody in general, not just that individual owner who happened to have that environmental area running through the property. That's our concern.

Mr Hampton: So it's not the protection you object to, it's the question of how it's going to be handled and dealt with?

Mr King: Yes.

Mr Hampton: Did you take part in any of the park planning?

Mr King: We commented on the various reports that came through, yes.

Mr Hampton: That's all I wanted to ask.

The Chair: Thank you very much, Mr King. We appreciate your taking the time to make a presentation before us this afternoon.

Now, committee members, we'll move on to the three motions that were tabled earlier today. It's my understanding that the first of those motions was the one moved by Ms Churley.

Ms Churley: Do you want me to read it now?

The Chair: If you wish. Yours was the first one.

Ms Churley: Whereas Bill 20 has a significant effect on the environment in Ontario; and

Whereas the Mike Harris government has taken many measures to dismantle environmental safeguards that protect our environment and health during the last eight months; and

Whereas the minister responsible for environmental protection is not scheduled to come before this committee;

I move that this committee formally request the Minister of Environment and Energy to appear before this committee to answer questions relating to the effect of the Planning Act amendments, Bill 20, on the environment and the people of the province of Ontario.

Could I speak to the motion?

The Chair: Please do.

Ms Churley: I'm not going to take up a lot of time. There are two other motions—

Mr Hardeman: On a point of order, Mr Chairman: Is the resolution you just read the same one that was circulated this morning?

Ms Churley: Yes, it is.

Mr Baird: The derogatory "whereases" were added.

Ms Churley: The clerk told me I should just give him the motion—

Mr Hardeman: I have no objection to the resolution. I just wanted to make sure we were working on the same document.

Ms Churley: You heard that. He said he had no objections to the motion.

Mr Hardeman: Being put.

1720

Ms Churley: In the interests of time, because there are a couple of other motions and it has been a long day, I'll keep my comments brief. It's very, very clear that the environment is a huge part of this bill. I would say a good half or almost half of the people who have come so far, and there are others coming before the committee, bring up their concerns about the implications of some of

the changes to the bill which will, in their view and in my view, have a detrimental effect on the environment.

The Minister of Municipal Affairs and Housing was here briefly, but it was very clear to me that, first of all, there wasn't a lot of time for questions, but it was also very clear his background is not in the environment. It was very clear he didn't have answers to questions. We haven't had an opportunity to hear from the minister her views on some of these changes and how she would ensure that environmental protection is provided once this bill is passed and the changes come into effect.

I think the committee should understand that it may appear right now that all these changes can be made and nice little words be put into the bill about environmental protection, but when the substance isn't there, sooner or later, people are going to start figuring out that this government is dismantling environmental protection, and I can assure you there's going to be a lot of concern and a lot of anger about that.

I think it would be in the interests of all of us on this committee to have the minister here to discuss some of those concerns. Perhaps she can reassure some of us about some of the issues which have been raised that seem to indicate that there could be very dire environmental consequences as a result of some of these changes. I think it would make sense for all of the committee members to hear at first hand from the Environment and Energy minister and I would certainly request and solicit the support of you all in asking the minister to come forward and be able to answer some questions.

Mr Gerretsen: I speak in support of this motion and I hope that this will be carried unanimously. We're here to get as much information particularly as possible, and if there is something that the minister can add to this, or at least give us her views on these changes, then I think that the committee work will be the better for it. I'll just leave it at that. I think there are some environmental impacts, obviously, that will result as a result of this legislation, so let's find out the ministry's official view on it. I speak in support of the motion.

Mr Hardeman: I would refer it over to Mr Galt, who is the parliamentary assistant to the Minister of Environment. I'm sure he would appropriately speak to the resolution.

Mr Galt: I think it's rather interesting the comments that have been made and the motion that has been put forward. I think back over the day and a half that I've been here—I missed most of this afternoon, and I'll explain that in a moment—and as it relates to MOEE and that particular ministry, there's really been very little that's been brought forward about the Ministry of Environment and Energy as it relates to that portion of Environment.

I would point out that one of the purposes of a committee hearing is, as I understand it anyway as kind of a new rookie on the block, we're here to get input from the public. We've already received ministry input, particularly from the minister, as mentioned earlier. Also for input we have the Environmental Bill of Rights registry. This information is out to the public in that way.

As parliamentary assistant for Environment, I have been meeting with stakeholders and that's, as a matter of fact, where I was this afternoon, meeting with several

stakeholders over the policy statements that we have. As a matter of fact, it was an excellent meeting this afternoon with people with various interests coming together and coming to an agreement on economic development and protection of the environment at the same time. Those who had a real interest in the environment came up and congratulated me at the end as to how well the meeting came together so that both interests could be protected.

I mentioned a second ago Minister Leach has been here, spent close to an hour and a half, a full hour in responding to questions. That is the lead ministry involved with this particular act and he did, I thought, just an excellent job in responding to the questions.

I'd point out to the member presenting this that when Bill 163 was debated, the minister, the Honourable Bud Wildman, did not make a presentation to this committee. As a matter of fact, your parliamentary assistant to Environment at the time, Wayne Lessard, did not sit on the committee for the hearings. In this case, I'm here as the parliamentary assistant for Environment, and also Bill Murdoch is the parliamentary assistant for Natural Resources. Unfortunately, he hasn't been here the first two days, but certainly will be participating in the hearings. So I think you're very, very well represented in both of those ministries.

I certainly cannot support this motion and I would encourage the members not to support this motion and would also, in closing, point out that all the information coming forward at these hearings is being provided to the minister and to her staff for consideration and deliberations as we move to the third week and look at line-by-line deliberations on the act.

Ms Churley: Thank you, Dr Galt, for that. I was quite interested in your explanation as to where you were this afternoon and, because you've offered this information, I wonder if you could table the stakeholders whom you met with this afternoon. You might be able to tell us now, but if not, table that for further reference; because you've offered this information, I wonder if you'd be willing to do that.

I would just like to quickly say that I don't accept that explanation as to, for good reason, why the minister shouldn't appear. I appreciate that you are the parliamentary assistant but so far, Mr Chair, the presenters who have talked about the environment—I've heard Dr Galt say on many occasions very nice words about how this government cares about the environment and is protecting the environment, but I have pages of evidence which I could rhyme off here in this meeting of areas where the environment has been cut, the budget has been cut.

There's been deregulation around the MISA regs. I don't know if he's aware of that, Mr Chair, but the municipal-industrial strategy for abatement plan, which all levels of government worked on—it was done in secret, they were just watered down. The advisory committee that was there to advise the ministry on such things was fired, was told, "We don't need you any more." In the meantime, the minister was busy signing regulations watering down these MISA regulations, which I think is a disgrace. That's just one example right there, and there are many, many others.

You mentioned the Environmental Commissioner. I mean, she just recently did an unprecedented thing and wrote a letter to the Speaker of the House complaining that she had very, very broad concerns about Bill 26 and the exemptions from the registry that came through that bill.

There are many other areas that have been cut and there are people out there in the community—and you will be hearing from others, and some you won't hear from, some have been writing—who have grave concerns about the implications of this bill, Bill 20, on planning as it relates to the environment.

I think the minister has a responsibility to appear before this committee to answer questions that, with all due respect, Mr Leach was unable to answer, has no knowledge of. The Minister of Environment, that's what she does day to day. I say again that nice words about how this government is protecting the environment are just not going to cut it and we need to have some real answers about the minister's involvement in the writing of this bill, which looks to be minimum, and what she is going to do to work with the Minister of Municipal Affairs and Housing to make sure that the environment will be protected.

1730

Mr Gerretsen: I must admit that I'm a little surprised that the minister couldn't be made available. I totally agree with Dr Galt to this extent, that this is a public open process. We're hearing from a lot of different delegations and there are certain environmental issues that have come out as a result of that. Now, at the end of the process I wouldn't expect the minister to be here first thing tomorrow morning, but I would expect her to be here once all the public consultation has taken place. At the end of the process, there may be certain questions, as there already have arisen in certain areas, that the minister could enlighten us on.

If the whole intention is to stonewall this committee with respect to government information, then somebody say it out loud and let's clear the air and let's get on with life. I thought the request was a reasonable one, but if there's government policy to the effect that ministers do not come to a committee like this—I realize, sure, Minister Leach was here because it's his bill, but to suggest that he would have been in a position to answer the environmental questions that the bill raises or that have been raised by a number of the people who have made presentations to the committee, I think that's just going a little too far because I don't think he would have been able to.

In any event, I think the request is reasonable and I'll just leave it at that.

Mr Galt: Just a short comment in connection with Ms Churley's response. We probably would not be in this position if the overspending hadn't occurred and put us so far in debt. We have to do something about the horrendous debt that we're into, and the rest of her partisan comments don't warrant any comments.

Interjections.

Ms Churley: We're not going to keep this up, I know, but watering down MISA regulations has nothing to do with cutting the debt. But I'd just like to ask Dr Galt

again, though, if he could table with this committee, the stakeholders he met this afternoon.

Mr Galt: Mr Chair, I'll investigate that possibility.

Ms Churley: That should be public knowledge. You as parliamentary assistant to the Minister of Environment and Energy—what's to investigate? I don't understand.

The Chair: I believe Dr Galt has given whatever response he is going to give you, Ms Churley.

Is the committee ready for the question? Shall the motion carry?

Interjection.

The Chair: I beg your pardon. You're right, put your hands up.

Mr Gerretsen: I would like a recorded vote.

Ayes

Churley, Gerretsen, Hampton, Hoy.

Nays

Baird, Galt, Hardeman, Ouellette, Pettit, Smith.

The Chair: The motion fails by a vote of 6 to 4.

The second motion is the one moved by Mr Hampton. If you'd care to speak to the motion, Mr Hampton, the floor is yours.

Mr Hampton: Yes. As you look at the clauses of this bill and then you look at the policy statements, and we've listened to quite a lot of information provided by members of the public over the last few days, I think a couple of things become apparent.

The Ministry of Natural Resources in fact has the biologists, the ecologists and water resource people who can tell us to a large extent how this bill will work in terms of implementation and operation. As well, in related matters, you've got the policy statements: the policy statement on wetlands, the policy statement on natural environment features. You've got the issue of ecosystem planning or ecosystem management, and that all falls into the work that people in the Ministry of Natural Resources do as well.

Further, people in the Ministry of Natural Resources are often called upon to provide expert evidence, either at the municipal level or at the OMB level, as to what constitutes a significant provincial feature in one way or another, or simply to give a description of the planning area in question.

For all those reasons, I think it would be wise for this committee to hear from the Minister of Natural Resources. The minister can bring some staff people with him, as is often the case, to deal with some of the issues that have been raised frankly by some of the people who have taken the time and effort to appear before the committee.

As well, there's another issue, I think, that needs to be looked at. It's my understanding that the Ministry of Natural Resources staff is going to be cut by about half over the next 14 or 15 months. I spent some time at the Ministry of Natural Resources and it was their view that even with the old system—I'm not talking about the Bill 163 system, but even with the system that predated Bill 163—they were hard-pressed to provide the kind of evidence and information that is needed in order to do

thoughtful, careful, orderly planning, planning that doesn't cost you more money down the road because it was done poorly.

I think one of the things we should perhaps hear from the Minister of Natural Resources is what is their thinking, what is his thinking, in terms of how the Ministry of Natural Resources will be able to do this planning, provide this expert advice and also work through this legislation and the policy statements if it's going to have less than half of the employees it formerly had.

If we're really serious about this legislation, and we're really serious in seeing how it will work, how it will be implemented and what will come out of it, then the ministry that does a lot of the on-the-ground work and has to deal with many of the on-the-ground problems should be heard from, as well as some of the professional staff from that ministry. That would only inform this committee and help us to make an informed report back to the House on what this bill is all about and what it can and cannot do.

Mr Hardeman: First of all, I want to say that this is a bill from the Minister of Municipal Affairs and Housing and the Minister of Municipal Affairs and Housing did appear to explain the bill in its entirety. He may or may not have answered the questions to your satisfaction. That again is a judgement call.

I do want to comment first on a couple of statements that have been made. I think Mr Gerretsen mentioned the issue of stonewalling, that in fact we're trying to keep information from the committee. I would point out that prior to the hearings of the committee, the offer by the ministry was made that they would go through it clause-by-clause and explain anything that was in the bill to the best of their ability and I would surely hope that no one on the committee would suggest that the ministry does not know what it says. They may not be able to deal with the policy direction, but as to what the clause-by-clause bill actually reads, I would be the first to suggest that there would be no better place to find that information than the offer that was made.

Also, I think everyone would agree that there is a connection or a process that this is following Bill 163. There are similarities between the direction of what the bill is supposed to do, between what was being proposed in Bill 163 and what is being proposed by Bill 20. I just want to point out that the Minister of Natural Resources at the time, Mr Hampton, did not deem it appropriate to appear before the committee or did not feel it was needed to appear before the committee to deal with those issues.

I would go on to suggest a number of issues that have been brought forward by members of the opposition that the members want to discuss that are not part of Bill 20, but issues of the direction that the government is taking on our expenditure controls and to try and get the deficit somewhat under control, as to the number of employees who will or will not be working in different ministries. I think they're very important issues, but they are not directly related to Bill 20. I would suggest that the ability to discuss that information should be pursued in an alternative method. I believe these hearings are set up to deal with the public participation in Bill 20 and to hear what the public has to say about the issues as they appear in our bill.

I also want to point out that the Minister of Natural Resources has informed me that they are prepared to answer any of the relevant questions that you may have. If you wish to forward them, we would try and get answers to them for you to help you in your deliberations.

But we do not feel it appropriate that we request the minister to appear before the committee, and the government will not be supporting the resolution.

1740

Mr Gerretsen: First of all, I don't particularly care what happened with respect to the last government and whether or not somebody did or did not appear to a committee. I believe I've heard that at least a half-dozen or a dozen times now. As far as I'm concerned, I was in private life at the time and did not take any particular interest other than the interest as an ordinary citizen in Bill 163. I've no idea how it was developed or what the process was, and quite frankly I couldn't care less.

The issue that is being totally missed in this is that yes, there is a public aspect to the debate on this bill and that's happening on a daily basis. There's also another aspect to it and that is that the minister came here and explained the bill to the best of his ability and answered questions on it. Perhaps that process should take place at the end of the public process rather than at the beginning, quite frankly, because at that point in time we really don't know what's on people's minds until we've heard from the general public.

I guess what I'm mainly interested in—and this is right in line with what the government's purpose of this bill is, and that's to speed things along and to deal with a cost-efficient method etc etc, and I agree with that—but I would like to know how the larger ministries, that are going to have an impact on the planning that's going to take place in our communities under this Bill 20, are going to be affected one way or the other and to a certain extent how they are going to be involved in it from an administrative viewpoint. That's where my support in this is coming from.

Now, again, Mr Hardeman can disagree with me if he wants, but this is very much like the process we went through on Bill 26 as well. There is a definite attempt, as far as I'm concerned, and I'm trying to look at this in a balance, unbiased sort of way, for ministers of the crown, for whatever reason, not to cooperate with what is happening at the committee level. This is the second committee now that it's happening to as far as I'm concerned, and if that's the way we're going to play the game, then let's get on with it and let's just vote on it and deal with it.

This has got nothing to do directly with expenditure controls. The process that comes out of it may very well end up with a better system for planning for Ontario and as a result of that there could be certain public and private moneys being saved etc, but the bill itself has nothing directly to do—the bill itself doesn't save you any money. The process that comes out of it does.

Ms Churley: Maybe.

Mr Gerretsen: Maybe. That's the concern you're talking about.

There are two ministries here that are directly involved within the planning process. They are going to be circu-

lated with the various planning documents that come out of the municipalities as a result of the new processes that we're putting into place under Bill 20.

If it's being suggested that whatever these people have to say is of no interest to the committee, once the public process or the public presentation process has ended, the I would suggest to you that you're totally wrong in that, but that's my view on it.

The Chair: Ready for the question?

Ms Churley: A recorded vote, please.

Ayes

Churley, Gerretsen, Hampton, Hoy.

Nays

Baird, Galt, Hardeman, Ouellette, Pettit, Smith.

The Chair: By a vote of 6 to 4 the motion fails.

The third motion was the one proposed by Mr Gerretsen.

Mr Gerretsen: I moved this one and I'll speak to it very briefly. In this case, we are not dealing with a government department as such. We are dealing with a quasi-judicial body. The purpose of the motion here is to deal with their administrative procedures, not with the way in which they reach decisions, and I'm going to make this quite clear. I realize that we have to be careful when you're dealing with a judicial or a quasi-judicial body. Obviously the manner in which they decide things—I may have some general inquiries about that, but that's not my main concern.

The issue of appeals to the OMB with respect to minor variances, I think it's safe to say, has been brought up by just about everyone who has commented on that section. All of these people have all had the same comment: Basically they would prefer municipalities not to be the final decider, but rather the OMB. There have been certain comments made with respect to the workload of the OMB as far as minor variances are concerned, and with respect to the length of time that it takes to get a matter heard by the OMB once an appeal has been launched for a minor variance. We've heard everything here from 12 months to four to six months from different presenters.

I'd like to know what the facts are. I would like to have somebody in an administrative capacity from the OMB—maybe its executive director, for example—come here and provide those statistics to us and also make some comment with respect to the notion I sort of floated yesterday: If the concern is to get to the final decision as quickly as possible in minor variance cases, and that's certainly something I'm interested in—I don't think people should have to wait 12 months in a lot of these cases to know exactly what the fate of their application is, or if you're in opposition to it, what the fate of the application is as well—is it possible that the OMB could set up a smaller panel of people—the same people who are there now; I'm not talking about appointing new people—who on a rotating basis would be dealing with the applications, which we heard the other day I think from somebody in most cases take less than a day to hear, to deal with them in a quicker and more efficient fashion?

This is not a government department. No minister is going to hang himself out to be potentially embarrassed by any questions that may be asked. I think it may be something the committee as a whole may be interested in finding out about. I would urge the members of this committee to support the motion.

Ms Churley: I speak in support of the motion. We have to bear in mind, when we sit on these legislative committees, that at the end of the day we will be looking at amendments. I've been in government. I know that the government members are not going to change the main thrust of the bill. That's unrealistic. I suppose I could hope that you could be convinced in the areas I'm most concerned about. But I also know, having been in government, that government members do support or make motions that the opposition will support that make the bill better. I think some very good points have been made by my Liberal colleague that this is an area a lot of concern has been expressed about.

Very few of us on this committee have the background in what can be sometimes a very complicated, very complex area, and if you don't have a background—I have a small background so I tend to understand it overall, but not everything—I think it would be useful, particularly in this area, to have officials come in to be able to answer just routine kind of technical questions that might be able to help us when it comes time to look at amendments in those kinds of technical areas where it actually, even from the government's point of view, could improve the bill. I can't understand that there would be any reason why all members couldn't support this particular resolution.

Mr Hampton: It seems to me the government has staked a lot on saying, "If we push through these amendments and these changes, planning and the planning process will move along more quickly." Then the government says it will be easier to get economic development projects off and running and put the construction industry back to work etc. We've already heard from a number of folks who have been involved in planning from one perspective or another who have said, "Well, it may not be so."

What you may find is that you've introduced a level of ambiguity and vagueness into this whole process such that everything will now be open for interpretation and therefore everything will be open to a fight, and the result will be that processes can and will take a lot longer. We heard from one individual today who said that groups will naturally tend to agglomerate around some of these issues and fight them tooth and nail.

1750

I think it would be wise for the government, as this motion suggests, to have someone from the OMB attend and help us out in terms of whatever information they can provide. You may be right; the government may be right on this. I think you've heard, though, from enough people who carry weight and credibility in terms of planning who have said: "You're not right. This will not speed things up. If anything, it will slow things down and make things more costly and at the end of the day you will end up with bad planning which can cost you megabucks down the road as you try to repair some of

the damage done by bad planning." I think it's just prudent to have someone from the OMB attend and help us out before you gamble away a big chunk of the future on something which may be very flawed.

Mr Galt: Certainly I have some empathy in listening to the suggestion. I would have to have more information about procedure with something like OMB. I also just kind of wonder if there's a need to have them come before us. They could have put forth a presentation, or the members of the opposition or third party could have encouraged them to put in a submission and make a presentation as a delegation. I would need to know some of the procedural effect of this committee inviting somebody from the OMB to come before I could vote to support it. Unless somebody has that information for us, I'm not aware of it right now.

Mr Hampton: In reply to Mr Galt, I think you'd find that the OMB would not appear here on its own will, that it would probably take an invitation of this committee. As a quasi-judicial body they would not want to be seen as in some way determining the legislative and consultative process. If an invitation came from this committee specifically along the lines that have been suggested here today, we probably would find some people from the OMB would be willing to come over and enlighten us on some of these issues. I think, just in the interest of keeping the quasi-judicial world separate from the legislative world, they won't do that without an invitation.

Mr Hardeman: I will not be supporting this resolution. The problem I see is that I think all the questions that have been put by the opposition members that they would like answers to could be put on a piece of paper and forwarded to the OMB and that information could be received back.

I have concern, as Mr Hampton mentioned, that they would not appear here on their own. I feel it's inappropriate to request them to be here. The questions would, in all fairness, relate to whether the OMB deemed government policy appropriate. I don't believe it's appropriate to put them in that predicament or that position, to have to comment on whether this will be good for the OMB or bad for the OMB. I think the opposition members would not want to put themselves or the OMB in that position. I suggest that all the questions we have could be put in writing and that we could get responses back to answer the concerns that have been addressed. I will not be supporting the resolution.

Mr Galt: I think in view of the confusion and misunderstanding of what they can or can't do, it would be wise to table this motion for 48 hours. Why can't we table the motion? Can we table it until we have further information in 24 hours?

The Chair: The Chair is at the direction of the committee.

Mr Galt: I think that's in order.

The Chair: The clerk advises me it would take unanimous consent to postpone further consideration of the question.

Mr Gerretsen: Before doing that I want to make it quite clear, just so you know where I'm coming from, that the purpose of requesting the OMB to come before this committee is not to ask them policy advice. I realize

full well that policy directions come from the government and from the ministry. The political people are the policymakers, and I certainly wouldn't be asking the OMB to come here and say, "Do you think it's a good idea if we put this in this act or if we put that in that act?" My question was related to some of the comments that were made about the OMB and the length of time it takes to get hearings and that sort of thing. I made it quite clear: It deals with the administrative aspects. The policy advice is being done by the government.

Rather than 48 hours, if you want to get some further input, if you want to table it for 24 hours, let's deal with 24 hours; 48 hours brings us to Thursday and then the only day they could come, I suppose, would be next Monday, because then we're on the road. I've no objection to it being tabled so you can get some further advice on it, but I'm not here to embarrass anybody as far as the OMB is concerned, as far as anybody is concerned, for that matter.

There have been comments made about whether or not the council should be the final decider with respect to the minor variance matters or the OMB. That's a major issue with just about everybody that's addressed it and they all come down on the side that they want the OMB to do it. Then the issue as well is, if we want to speed things along, why does it take them as long to deal with a minor variance as it does to deal with a full-fledged rezoning application, and is there a way in which that can be handled quicker? So I'd like an administrative person here, not a political, appointed person who is now a member or chair of the OMB.

The Chair: Is there any further discussion? There is a suggestion and, as I said, it takes unanimous consent to defer any further discussion. Is there unanimous consent that we defer this? No? Seeing none—

Ms Churley: Till when, tomorrow?

Interjection: There was a suggestion made for 48 hours.

Ms Churley: Why not 24?

Mr Galt: I'm not here tomorrow. That was why I suggested 48, but tomorrow is fine. I think the committee needs to be better informed before they make a decision on this, because there is some merit in what's being suggested; if we have more information, maybe we could make a wiser decision.

The Chair: To perfect the suggestion being put to you, further discussion would be withheld for 24 hours. Is there unanimous consent?

Mr Hampton: At the end of tomorrow?

The Chair: The end of tomorrow? Mr Hardeman indicates he's not prepared to give his consent. Is the

committee ready for the question? Any further discussion? All those in favour of the motion?

Mr Gerretsen: Mr Hardeman apparently didn't consent so—

The Chair: That's right. We're dealing with the motion.

Mr Hardeman: I believe that delaying it for 24 hours or 48 hours is not going to change the issue, and I believe it's inappropriate to have the OMB appear before this committee when all the questions that have been put forward can be addressed. If any member of the committee wishes to have them addressed, forward them to the OMB and they will be answered at their earliest possible convenience.

Mr Gerretsen: So you're saying, Mr Hardeman, just so I understand correctly, that the people of the province of Ontario are allowed to come to make a presentation here but a quasi-judicial body of the province—

Interjection.

Mr Gerretsen: That's right. You are in effect saying that the only way we can communicate with those people is strictly by way of letter and you do not want them to appear. I just want to understand that correctly, because that just proves everything I've said about stonewalling earlier.

Mr Hardeman: I would point out that if the OMB wishes to appear before the committee, the committee would hear them, but I don't believe that the request that has been put forward thus far requires any further information than what could be provided, and I don't believe we should proceed with asking them or requesting them to appear before the committee.

Mr Gerretsen: On a point of order, Mr Chair: I haven't been around long enough, but I darn well know that an agency of the government would not come before this committee on its own accord. It would be taking its own life into its hands.

The Chair: Ready for the motion?

Ms Churley: A recorded vote.

Ayes

Churley, Gerretsen, Hampton, Hoy.

Nays

Baird, Galt, Hardeman, Ouellette, Pettit, Smith.

The Chair: By a 6 to 4 vote, the motion fails.

This committee stands recessed until tomorrow morning at 9 o'clock in committee room 2.

The committee adjourned at 1800.

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Chair / Président: Gilchrist, Steve (Scarborough East / -Est PC)

Vice-Chair / Vice-Président: Fisher, Barb (Bruce PC)

*Baird, John R. (Nepean PC)

Carroll, Jack (Chatham-Kent PC)

Christopherson, David (Hamilton Centre / -Centre ND)

Chudleigh, Ted (Halton North / -Nord PC)

*Churley, Marilyn (Riverdale ND)

Duncan, Dwight (Windsor-Walkerville L)

*Fisher, Barb (Bruce PC)

*Gilchrist, Steve (Scarborough East / -Est PC)

*Hoy, Pat (Essex-Kent L)

Lalonde, Jean-Marc (Prescott and Russell / Prescott et Russell L)

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Galt, Doug (Northumberland PC) for Mr Tascona

Gerretsen, John (Kingston and The Islands / Kingston et Les Îles L) for Mr Duncan

Hampton, Howard (Rainy River ND) for Mr Christopherson

Hardeman, Ernie (Oxford PC) for Mr Carroll

Pettit, Trevor (Hamilton Mountain PC) for Mr Maves

Smith, Bruce (Middlesex PC) for Mr Chudleigh

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Document
Publication



R-8

R-8

ISSN 1180-4378

**Legislative Assembly
of Ontario**

First Session, 36th Parliament

**Assemblée législative
de l'Ontario**

Première session, 36^e législature

**Official Report
of Debates
(Hansard)**

Wednesday 14 February 1996

**Journal
des débats
(Hansard)**

Mercredi 14 février 1996

**Standing committee on
resources development**

**Comité permanent du
développement des ressources**

**Land Use Planning
and Protection Act, 1995**

**Loi de 1995 sur la protection
et l'aménagement du territoire**



Chair: Steve Gilchrist
Clerk: Douglas Arnott

Président : Steve Gilchrist
Greffier : Douglas Arnott

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
RESOURCES DEVELOPMENT

Wednesday 14 February 1996

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DU
DÉVELOPPEMENT DES RESSOURCES

Mercredi 14 février 1996

*The committee met at 0915 in committee room 2.*LAND USE PLANNING
AND PROTECTION ACT, 1995LOI DE 1995 SUR LA PROTECTION
ET L'AMÉNAGEMENT DU TERRITOIRE

Consideration of Bill 20, An Act to promote economic growth and protect the environment by streamlining the land use planning and development system through amendments related to planning, development, municipal and heritage matters / Projet de loi 20, Loi visant à promouvoir la croissance économique et à protéger l'environnement en rationalisant le système d'aménagement et de mise en valeur du territoire au moyen de modifications touchant des questions relatives à l'aménagement, la mise en valeur, les municipalités et le patrimoine.

The Vice-Chair (Mrs Barbara Fisher): Good morning. Seeing a quorum, we'd like to proceed. I do apologize for the delay. Unfortunately, somebody ended up with a battery that was dead and then no car keys, and we have another one who's involved in the weather out there somewhere trying to get here. We didn't have a quorum at 9 o'clock either. We would like to proceed.

WOMEN PLAN TORONTO

The Vice-Chair: I do owe our apologies to our first presenter this morning. Good morning and sorry for the delay. We will proceed with a presentation period of a 25-minute allotment, and if you'd like to make a combination of presentation and question-and-answer, please do so. Welcome to our hearings.

Ms Reggie Modlich: I'm Reggie Modlich, on behalf of Women Plan Toronto, a volunteer organization with over 400 individual and group members and supporters. We assist women to become conscious of their needs in their communities and to speak up on their own behalf. We work to have women's voices heard and our needs met in municipal decisions that affect our lives.

We have been deeply involved in the Sewell commission and its recommendations and are concerned that Bill 20 pushes aside years of struggle and efforts by thousands of people, especially women, to create compact, diversified and caring communities while safeguarding our natural environments. We believe the bill opens the floodgates to unrestrained urban sprawl and exposes our environment to the whims of political discretion. Few areas of government responsibility have to respect public interest more than the policies and processes by which our communities are planned.

Democratic governments differ from authoritarian governments primarily by having to act in the public interest

rather than that of a few groups. As we witness bill after bill introduced by this government effectively making the poor poorer, the sick sicker, the weak weaker, and the rich and powerful more wealthy and powerful, we start having serious concerns about which form of government we live under.

For social, economic, demographic and even biological reasons, communities affect women differently and often negatively than other sectors in the population. Women still earn three quarters of what men earn. Although over half of working-age women are in the labour force, we still carry the burden of two thirds of unpaid domestic work.

Two thirds of Canadians over 65 years of age are women and almost half of them live below the poverty line. All this takes place in a context of an astounding amount of violence against women. Over 40% of women over 16 have reported being assaulted by men, and almost 30% of married women state that they've been assaulted by their partners. These factors greatly constrain all aspects of women's lives. Thus, availability, affordability, accessibility and security of housing, services and transportation affect women more than men. The process and regulations that guide the planning of our communities are consequently of critical importance.

We are particularly concerned about Bill 20 reneging on intensification. The Sewell commission laid the basis for planning policies and processes which encouraged compact, comprehensive, lively and productive communities. Provision of hard and soft services, transit and pedestrian movement becomes more efficient, viable and therefore more affordable in such communities. The recently released Blais report estimates savings of \$1 billion per year in the GTA alone if communities were built at densities of traditional Toronto neighbourhoods.

Intensification basically means a few more units on a given piece of land. This allows for lower housing construction costs without lowering the building code standards—another proposal by this government. Intensification would therefore place lower-cost housing on the market without compromising quality—particularly important to women. The problem with the slow housing markets today is not the Ontario Building Code or rigorous planning regulations, but truly a terrified workforce uncertain about how long they will have their jobs and how they will be able to feed and shelter their families, and ever-growing numbers of unemployed and elderly as well.

Women Plan Toronto is concerned about the change in the status of accessory apartments. Women, as home-owning widows or single parents or as tenants, greatly benefit from such apartments. For ever more people, and

especially women, such units are becoming the only alternative to homelessness and destitution on the streets. Women Plan Toronto has fought for their legalization for almost 10 years. Such apartments were legalized precisely because for years municipal councils had refused to acknowledge and ensure the safety of the estimated 100,000 units that exist. Although the bill legalizes existing units, most municipalities know neither number nor location or condition of these units. Few councils therefore have the incentive, resources or information to develop, let alone equitably apply, the proposed regulations.

Removal of as-of-right permission for secondary units is contrary to the government's own pledge to reduce government regulation and intervention. Such free-market affordable units would dampen the blow of your cuts to cooperative and social housing. They would also help the building industry. Again, economically vulnerable groups, and especially women, will be hurt the most by these changes.

Several policy changes concern us. All policy changes have been rendered considerably less binding by changing "consistent with" to "having regard for." As long as an excuse for non-compliance can be made, policy statements can be circumvented. In addition, most existing provincial policy statements have been so compressed and generalized in the new bill that many specific aspects that have benefited women have been lost or become optional; for example, B policies on economic, community development and infrastructure.

Almost all guidelines for healthy communities have been eliminated, including support for compact communities, mixed uses, lively and safe pedestrian-oriented streets. Instead, the undefined term "cost-effectiveness" is substituted.

The stress on public transit and development densities to make transit cost-effective is reduced. This further restricts the mobility of women since they have less access to cars and are far more dependent on transit than men.

Bill 20 omits the linkage of social and human services with land use planning. We have struggled over 20 years for the acknowledgement of this link. This policy would have required municipalities to consider services such as child care centres, neighbourhood social service centres and women's shelters in their official, secondary and subdivision plans. We had hoped that the Development Charges Act would be broadened to cover capital costs of soft services. This could have enabled municipalities to bring about truly healthy communities to benefit women, children, the elderly and everybody in the community.

Housing policy changes worry us too. They no longer specify affordability criteria or ratios. This opens the door for negotiating away the already minimal requirement to provide 30% of new housing to be affordable and 15% to meet the needs of the lowest 30% income earners. Over half of the female-headed, single-parent families live on low incomes. Thus, women and their dependants will be put at a further disadvantage by this change.

Natural heritage, environment and conservation policies are weakened too. Natural heritage protection guidelines have no longer clear standards and performance criteria. Conservation guidelines have omitted transportation, waste management, site plans, building and infrastructure

design. Women take major responsibility for nurturing their families and children, and elderly relatives. We are generally more aware and concerned with potential health problems arising from an endangered natural environment.

Lastly, we are concerned about changes in the planning process. Bill 20 and Bill 26 shorten or eliminate many appeal periods. The ministry gains powers to allow development to bypass normal processes. Such tightening of the time lines makes it more difficult for community organizations and individual citizens to inform themselves, discuss the issues and develop positions and interventions. With their dual and triple roles and safety concerns, women will find it even more difficult to participate.

Local councils obtain greater controls and approval powers. Committee of adjustment decisions can no longer be appealed beyond the local council level to the OMB. Many councils in Ontario are dominated by homeowners who break out in a rash of NIMBY at the mere mention of anything they fear might lower their property values. This has included such proposals as a bus stop in front of their houses; semi-detached dwellings backing on single, detached dwellings; or basement apartments next door. Such attitudes have and will favour low-density, socially manicured urban sprawl, which harms women, other vulnerable groups and of course the environment.

In conclusion, Women Plan Toronto is deeply concerned that the quality of life in our communities will suffer through Bill 20. Issues we have struggled for decades will be rolled back. To protect women and children and many other groups in the population, Women Plan Toronto therefore urges the following:

- (1) Require that the municipal planning be "consistent with" and have not only "regard for" provincial policy statements, to ensure stronger compliance.
- (2) Retain the B policies of Bill 163, particularly regarding intensification, recognition of the social services and land use link, and other qualities of healthy communities, if not as an integral part of the bill then at least as part of implementing guidelines.
- (3) Retain policies and standards for conserving and protecting the natural environment, including the protection of wetlands.
- (4) Retain the clear and simple thrust of Bill 120, permitting accessory apartments in all fully serviced houses.
- (5) Retain the time lines and public participation processes of Bill 163 as well as the possibility of appealing committee of adjustment decisions, if not to the OMB then at least to the upper-tier municipal level.
- (6) Maintain the ratios of the housing policy statements.

We ask you to hear our concerns in the spirit of democracy and compassion and social equity. Thank you.

The Chair (Mr Steve Gilchrist): Thank you very much for your presentation. We have four minutes each per caucus. The questioning will commence with the official opposition.

Mr Pat Hoy (Essex-Kent): I have a question I'd like to ask you. Are you aware of any statistic that would tell me the percentage of women who are widowed within the total population?

Ms Modlich: I'm sure they're in the Women in Canada Statistics Canada report. I could probably dig that up.
0930

Mr Hoy: But you don't have any particular knowledge of it.

Ms Modlich: I don't have it on hand. Actually, yes, there's a whole section there on single women over 65. Now, there are many widows younger than 65, but there is a whole section on that and how their incomes are 15% less than those of their male counterparts, and that's where this 50% living below the poverty line comes from. They're single women's households over 65.

Mr Hoy: The same question could be asked about how many widowers there are in Ontario, or indeed Canada.

Ms Modlich: One third in that case, in that age group.

Mr Hoy: These widows or widowers who have homes with the ability to put in a second unit would, I think, enjoy the opportunity of having someone else in that home—I don't want to use the word as a "companion," but as a security measure for themselves. Would you agree?

Ms Modlich: I believe so, and I think surveys have shown that that's occurring, that in fact the population in those areas where there is a large extent of basement apartments or secondary units does not necessarily increase at all, especially not considering the capacity of that area, but that it's usually underinhabited houses, especially of seniors or of single people who have family-sized dwellings, that are used for that purpose.

Mr John Gerretsen (Kingston and The Islands): Have you noticed a difference in the manner in which these basement unit apartments are kept from a safety viewpoint as a result of the implementation of Bill 120? In other words, within the network that you have, do the people who live in those units feel more secure now that, first of all, they're in legal units, and is there a greater safety standard now than was the case when they were illegal, before the implementation of Bill 120?

Ms Modlich: I feel that sufficient time has not passed to make such a generalization yet. Things just started rolling with municipalities getting a hold and integrating this whole new task. All these illegal units don't come forward by themselves, because obviously it may affect assessment, so it's going to take a considerable amount of time to integrate that.

Ms Marilyn Churley (Riverdale): Thank you for coming down to present to us today. Congratulations on the work that you've done. I know that it's hard for volunteer organizations to analyse these kinds of bills and continually have to come down and speak to them. I think you did a good job.

One of the issues you raised was public participation in the process. I know you're coming at it because of the work that your organization engages in from the women's point of view, but I just wanted to point out to you that there are quite a lot of restrictions on public involvement, which is really alarming.

For instance, public notice and appeal periods are reduced to 20 days for notice of an official plan and for filing an appeal. You know, you add in weekends and holidays and all of that, people can be left with just a couple of weeks to review, analyse and comment on very

complicated documents. Government review periods are shortened. Review and approval of an official plan is now 90 days instead of 150, and that was shortened from before, in Bill 163. Public meeting requirements are removed for subdivision plans, and the people who will be entitled to notice that an application has been made, that will be left to be set out in regulation, which of course can be changed any time. And of course I think you mentioned decisions to exempt minor variance from compliance with bylaw can no longer be appealed to the OMB.

There are a lot of things in the bill I don't like, but I'm extremely concerned about cutting off public participation in the process. I'm wondering if you can comment on the impact you think that will have on people.

Ms Modlich: It's quite traumatic. It's already difficult at the best of times, because most organizations have at most monthly meetings. By the time you circulate information and discuss these and come to a decision, two months are over. You know, to operate democratically, it's just not possible to respond on that basis.

Also, of course, developers always have the recourse of waiting longer and have a tacit agreement, if their application is not responded to in the 60 days, if they consent to waiting a bit longer, that's fine. But if they're bent on pushing things through, they can then push things through quickly. Community groups often are not from that vantage point. They're usually in a reactive rather than a proactive relation to a proposal, so deadlines tend to apply to them far more rigorously than the developer, who can say to the municipalities: "I know the deadline has passed. We can wait a bit longer and have things worked out." We have mostly acted at the municipal level as a group, and this is already a very, very difficult scene to intervene, precisely because of the deadlines, and now these time lines tend to more resemble it.

Also, the appeal to council of committee of adjustment applications: I'm really concerned that there needs to be a second level above a local council, because there is such a close relationship usually between these committees and council. They're very much in consent with each other. If somebody has a problem with a committee decision, it's likely they'll have a problem with council too. The same mentality exists in these groupings, because council appoints the committees, and if you don't have at least the upper-level municipal tier to go to to appeal and hope for a little bit of a broader horizon and sense of equity, these committee of adjustment things are just reinforcing the powers that exist already at the local level. Often they're narrow, they're very middle class, and social housing or anything of that nature will be ruled against and hopelessly lost.

The Chair: The questions will now pass to the government benches.

Mr Bruce Smith (Middlesex): How are you this morning, Mr Chair?

The Chair: The throat's better but my tongue isn't working.

Mr Smith: My throat's not.

Thank you very much for your presentation. It was certainly very comprehensive and thorough with respect to the issues that are being presented in the bill.

I just wanted to come back to one point that Ms Churley raised, and that was with respect to minor variance, and you spoke briefly about it. In your view, would it be more appropriate to leave the minor variance appeal process the way it is currently, or alternatively, given the government's positioning on and its desire to streamline the planning process, have you put any thought to what alternative mechanism there might be to deal with appeals dealing with minor variances?

Ms Modlich: I did suggest in the submission that maybe the upper-tier municipal level be at least one of those, an alternative to the OMB. I know that the OMB is overloaded. The alternative conflict resolution process that's been introduced there I think is a real positive thing. Maybe that could happen. Maybe that could happen at the regional or the upper-tier level. But I certainly think the local council is a poor choice for a last decision.

0940

Mr Smith: The issue of public participation you raised and Ms Churley raised again: As someone who has been involved in the planning process—and I'm asking you this from a perspective that I have as a planning practitioner myself—have you found the public participation process an effective process as it is presented today? Do you find people understand and participate in the planning process to the extent they should?

Ms Modlich: No, of course not satisfactorily. But I think the Sewell commission did provide some improvements in that. Again, it's a question of the power structure within municipalities and their approach to public participation that can make a tremendous difference. I think the city of Toronto is probably pretty progressive in innovative and positive changes towards improving public participation under the same legislation that exists for every community. I have participated in smaller communities and I realize how narrow that can be. It can be still, I think, a fairly positive process, but it could be much more improved.

Mr Smith: So perhaps the focus should be more on education and less concern about declining or streamlining time frames, whereby we would see more participation if people understood the process—

Ms Modlich: You need both.

Mr Smith: —and the time frames are really irrelevant.

Ms Modlich: No, I don't think the time frames are irrelevant at all. I think they're still very critical. But you need both the education and the language. That is a pretty formidable thing as well.

The Chair: Thank you very much for your presentation this morning. We appreciate your taking the time to come down and speak to us on this important issue.

WINCH PLANNING AND DEVELOPMENT SERVICES

The Chair: Our next presentation will be from Mr Mel Winch, planning consultant. Good morning, Mr Winch.

Mr Melvin Winch: I want to thank the members of the committee for having the opportunity of being here this morning. It was about one and a half years ago that I made a similar presentation to the standing committee on administration of justice, and that was in connection

with Bill 163, better known then as the proposed changes to the Planning Act which originated with the Sewell commission. Now, as then, my remarks will be directed towards one particular section, namely, the approval of what is commonly known as minor variances. I notice the previous deputant also touched on that as well.

As a result of my previous submission and those of others, the government of the day reconsidered the legislation back a year ago and the legislation was not changed dealing with minor variances. I believe that decision was in the public interest and hope that my comments before this committee today will allow you to recommend that the current proposal also be reconsidered.

If my comments and suggestions appear to be self-serving, your impression is correct. A substantial component of my planning practice is assisting with committee of adjustment applications and providing evidence at the Ontario Municipal Board. My remarks to this committee are based not only on this direct and substantial experience, but also as one who has worked in the public sector in senior roles for several municipalities.

Section 26 of Bill 20 repeals the current section of the Planning Act dealing with minor variance applications. The new provisions would permit a council to select one of three options for the approval of minor variance applications. Options 1 and 2 would mean that council or a committee of council in effect would hear the committee of adjustment application and there would be no appeal from such a decision.

Option 3: By this option, council could delegate the authority to a committee of adjustment consisting entirely of non-council members. With this option, the council would enact a bylaw and establish the following review/appeal procedures:

(a) Decide on a case-by-case basis whether to review a decision or forward it to the Ontario Municipal Board as an appeal; or

(b) review all decisions; or

(c) forward all decision as appeals to the OMB. The board would then conduct a hearing as is the present situation.

Under suboptions (a) and (b) the council would review the committee of adjustment decision and confirm, vary or rescind it.

Other than requiring the council to consider all submissions and responses, the new legislation does not specify how the review is to be conducted and this is somewhat disturbing. What is clear is that the Statutory Powers Procedure Act would not apply. Parties would not be entitled to call evidence nor question other parties at the hearing or review.

Currently, decisions of a committee of adjustment can be appealed to the OMB. With the new legislation, the right of appeal will be denied to applicants and objectors. It will be replaced with an optional council review which council may decide to apply under option 3 only, and only if no members of council sit on the committee of adjustment.

The new legislation dealing with minor variances is quite similar to that which originated with the Sewell commission. The commission recommended that appeals

of minor variance decisions be heard by the municipal council, but this was later watered down in Bill 163 to an optional review that might occur in limited situations. As I have previously mentioned, the proposals were subsequently withdrawn by the former government.

The proposal to do away selectively with appeals before the OMB and replace them with an optional but limited review of decisions by a municipal council is, in my opinion, unsound for a number of reasons.

The significance of minor variance applications: The Sewell commission stated that minor variances deal with "zoning detail" and issues are "too insignificant" to be dealt with by a provincial appeal body.

The term "minor variance" is not defined but a successful application is required to meet four tests of the Planning Act. In the final analysis, it is judgemental on the part of a committee of adjustment or a municipal board as to whether the tests are met.

The granting or a refusal of a variance to alter, for example, the height, size or placement of a building can be quite significant to both the proponents and community in which the proposed development is situated. While changes in use are usually accomplished through an application to amend the zoning bylaw, they can also be facilitated through the committee of adjustment authority contained in section 45 of the Planning Act.

There are numerous examples of committees granting substantial departures from comprehensive zoning bylaws or even site-specific bylaws that were carefully formulated after consultation with the public. This is often done, I might add, with the blessing of the local councillor, but without the backup staff reports and without full community participation. With the new procedure, the community may lose its existing right of appeal.

It is important that a sound approval and appeal process be in place so that all the relevant issues will be thoroughly canvassed and considered, and a fair and objective decision reached. This will not happen by a review process. It is also important that the process be perceived as fair to all the interests.

While committees of adjustment are governed by the Statutory Powers Procedure Act, hearings tend to be somewhat informal and limited in time. I have never seen an oath administered, evidence led by counsel, nor cross-examination permitted. Committee members are lobbied, particularly by council members, and frequently meet before a hearing is held and arrive at an unofficial decision before hearing all the parties. It is not unheard of for applicants or opponents to say they are going through the motions and they will have their day in court at the OMB.

Under such circumstances, the appeal procedure must not be eliminated.

The municipal council as an alternative is not well suited to consider minor variance applications or review decisions from the committee of adjustment. Councils, for the most part, have legislative and administrative functions to perform, which are based on perceived political mandates. Members of council do not have the time, interest, necessary skills, but most important, the objectivity to deal with appeals of variance decisions.

Elected members of federal, provincial and municipal legislative bodies expect to be lobbied by their constituents and other interest groups. While tradition and law dictate that the courts and tribunals such as the OMB are not to be influenced prior to a hearing being held, it will be difficult, if not impossible, for councillors to avoid being lobbied and coming to a conclusion on a minor variance matter before it is heard.

0950

Such lobbying can also be expected to influence a council in deciding either to review a decision or send it to the municipal board. If council decides to review the case, its decision is also likely to be influenced by lobbying.

Not only is the appeal or review process less meaningful with the new legislation, but it is solely at the option of the council whether it chooses to review committee of adjustment decisions. Where variances are considered by the council or delegated to a committee of council or to a committee of adjustment with at least one member of council, the appeal or review option is not available by the proposed legislation.

Part or all of a committee of adjustment can consist of council members. It is not uncommon for council members individually or collectively to send a recommendation to, appear as a deputant before, or appeal a decision of the committee of adjustment. In such circumstances, in particular, it is not possible for a council to be objective and be expected to deal fairly with the review of decisions. Council should not be judging the decisions of those to whom it delegated its authority.

If a council selects option 3, it can give itself the authority to review decisions on a case-by-case basis or forward the case to the OMB.

The public will not know in advance the process by which minor variance applications will ultimately be decided. Two similar proposals, for example, could be decided in one case by the council and in the other case by the OMB.

The public has the right to know ahead of time that the planning process operates by definitive and consistent rules.

Many minor variance applications involve a concurrent application to sever property into two or more parcels. Depending on the option council selects, appeals of minor variances may no longer be heard by the municipal board. The board will, however, continue to hear appeals relating to severances or consents. A situation whereby minor variance decisions may not be appealed or can only be reviewed by council, but the severance decision can be appealed and heard by the board, is confusing, inefficient and wasteful of resources. The same development proposal could lead to inconsistent results: one decision for the severance, one decision for the minor variance. Where does the proponent go?

If a proponent receives a negative decision from a council, committee of council or committee of adjustment, and if his review by council is unsuccessful, he still has the option of submitting a rezoning application for the same proposal and having the appeal ultimately heard by the municipal board.

Removing the right of appeal to the OMB for minor variance applications will likely increase the number of rezoning applications and appeals. This is counter-productive and is not the intent of the new legislation.

On the other hand, if an opponent of a proposal is not able to convince the decision-maker of his position, he may not, depending on the option selected by council, have the opportunity to take the matter to the OMB. This is fundamentally unfair.

If a council decides to refer minor variance decisions, either selectively or routinely to the municipal board, it could be faced with substantial fees or costs imposed by the board. This, in itself, could serve as a deterrent for selecting this option. On the other hand, council could attempt to recover such costs by increasing minor variance application fees and/or by attempting to recover their costs from the party who makes the appeal. This could discourage development initiatives or a party from pursuing his objection to a decision.

The Sewell commission's recommendation, which is more or less reflected in the new legislation, has been driven to a large degree by the commission's other recommendations which would see the municipal board take on additional responsibilities. There is also a legitimate concern with the excessive time it takes for appeals to be heard—no doubt about this. The appeal process should be concluded in a considerably shorter period of time, and there can be no doubt that the municipal board is overburdened. Nevertheless, minor variances should not be trivialized and removing appeals from the jurisdiction of the board is not the answer.

Minor variance appeals should, in my opinion, be continued and they deserve to be treated with the same degree of importance and impartiality as do appeals of official plan, zoning, subdivision, severance and site plan control matters. This should go hand in hand with efforts to reduce the number of appeals by increasing mediation and by screening of appeals and by arranging for hearings expediting decisions within reasonable time frames.

This can best be accomplished by strengthening the resources of the municipal board. The highly politicized environment of a municipal council is not an appropriate forum to review appeals.

The Ontario Municipal Board has well served the residents of this province in acting as an impartial and fair decision-maker in planning and land use disagreements and disputes. If the government wishes to review the desirability of maintaining an appeal procedure and role of a body such as the municipal board, I would suggest with respect it should do this systematically and not arbitrarily decide to eliminate one type of important land use decision from the jurisdiction of the board.

I thank you for your patience and having the opportunity to speak to you today. I'd be pleased to answer any questions that you may have.

Ms Churley: Mr Winch, thank you very much for your presentation. It's very clear and written in plain language and could be an educational tool for anybody, I think, who doesn't understand this process. It's very clear that you've had a lot of experience in the field.

I couldn't agree with you more when you talk on page 5 about municipal councils not being appropriate review

bodies. I think I heard my friend from Kingston muttering along in agreement on that one. It's not because you're saying that municipal councillors are corrupt in any way, but they are politicians. I have been—mind you, for a very short time—on city council and know exactly what you mean and understand the implications of council. I would expect that councils wouldn't want to be put in that position.

I wonder if you could tell me—I suppose I should actually be asking government members themselves, the minister—why they've chosen to do this, given that as you know, as you said, it was recommended by the Sewell commission and then we were convinced as a government to back off from that. What's this all about? Is it about trying to speed up the system by going about it, in this case, in a wrong-headed way?

Mr Winch: I think there are two motives behind the legislation, Ms Churley, one of which is to speed up and expedite and streamline the process and I can't disagree at all with that situation. I'm suggesting, as one way of doing it, obviously to pre-screen some of the appeals, which the board is now doing, attempting mediation to reduce the number of appeals and therefore provide more timetable, more schedule for the board to deal with applications more quickly.

The second motive, I believe, is probably trying to return decision-making to the local level. I don't disagree with that either. I think the grass roots is the appropriate place for decisions to be made. We are talking, however, here about an appeal, an appeal procedure. I have no problem with a committee of adjustment dealing with the initial application, hearing the application, but we must understand that at the local level there are these political motivations which influence decision-making.

When push comes to shove and when the decisions finally must be arbitrated, and the name of the game is land use planning and good planning, it really must be ruled at that point and put into the lap of an appellate body such as the OMB.

I think there are two reasonable motivations, but I think the second motivation is somewhat faulty in terms of how things really work, perhaps at the municipal level in terms of appeals.

Mr Bill Murdoch (Grey-Owen Sound): Thank you for your submission. I'm certainly glad that you're up front and said it was self-serving. I can see that and I think this is the reason why, though, minor variances aren't being sent to the OMB, because of people in your profession who sometimes can drag these things out. It takes too long for development to take place and I think this was the problem.

The only thing I can agree with you—maybe severances shouldn't be there either—but I would go the other way and say maybe they don't need to go to the OMB because a lot of people use this process to drag out development. I think this is what's happened in Ontario and this is what's slowed down development.

I would just like to ask you what your idea would be of what elected councils are actually for. We do elect people to make decisions. Maybe you disagree with that, but I would like to know why you'd say we elect councils.

1000

Mr Winch: I have no problem with council making decisions, Mr Murdoch. What I'm suggesting is that the total planning process must be considered. If, after these many years in this province, decisions should be taken philosophically not to permit appeals from local planning decisions, I can live with that, but I'm suggesting that to make that systematic, make it across the board.

Mr Murdoch: I could agree with you—

Mr Winch: Don't differentiate minor variances from zoning, official plan matters and subdivisions, because minor variance applications, in my experience, can be just as significant as those other matters.

Mr Murdoch: I'd like to disagree on that, but I think there could be some more maybe put in there and not appealed; I could agree with that. We could put some as the severance. Again, though, I think that's why we elect councils and that's what we have the democratic process for, and those are their decisions.

Mr Winch: The difficulty at the council level is, it's very difficult to set up the procedure, put the apparatus in place for a full hearing to get all the facts before the council. Even at public hearings, time is very limited and councils tend to be rushed. They have lots on the agenda for that evening, even at public hearings. It's very difficult to ask questions of other witnesses, of other people who make presentations. This, to me, is very critical, which is not occurring now at the council level.

Mr Murdoch: Maybe in some places, obviously in the ones that you've been in, but I've seen where they have. So again, maybe some of the experiences you've had have been wrong, but I think councils do that, so I guess we have a philosophy difference.

Mr Gerretsen: First of all, sir, I think this is an excellent presentation. Having been involved for 25 years at the municipal level and looking at this whole problem from a municipal level, from the applicants' level and from the public's level—I've represented all sides at various times—you've hit the nail right on the head, that it's an appeal we're talking about here. It would be like making a municipal council the adjudicating body to deal with bylaw enforcement etc. We have judges to do that. The real problem here, and I agree with the government's attempt to try to speed up the process—that's what this is really all about. How can we deal with minor variances at the OMB level a heck of a lot quicker than with gigantic rezoning applications and official plan amendments?

You may be interested in knowing that yesterday we put a motion before the committee in which we basically asked the OMB to appear before us to give us information from an administrative level as to how that could be done. That's where the crux of the problem is—I totally agree with you—and the government members voted against that. They don't want to hear from the OMB. They said that if the OMB wanted to appear, it should have applied just like everybody else, which I checked out last night. It's absolutely absurd for an agency of the government to in effect ask to make a presentation here without it being requested to do so. It would be highly inappropriate to do so.

I'm a great believer in municipal councils, by the way, and in municipal decision-making, but we are talking

here about an independent appeal. We should not just be looking at this problem from just a municipal council's viewpoint but also from the general public's viewpoint and from the applicant's viewpoint. Those individuals and organizations which are part of the municipality most of the time have rights as well. Do you have any comment on that, sir?

Mr Winch: I think you've supported what I've said to a certain extent, but I have no difficulty with council dealing, as Mr Murdoch said, with planning issues, providing a forum is established, that all the facts be put on the table, that there's a proper consideration of the issues and an informed decision is made.

There are many motivations that enter into any decision, and you are correct: In terms of the public's perception of things, it's important for them to believe they've got their day in court. It's important to actually be in attendance, so I think that comment is a fair comment.

The Chair: Thank you, Mr Winch, for fighting the traffic to come down and see us this morning and making your presentation.

WEST SCARBOROUGH COMMUNITY LEGAL SERVICES

The Chair: Our next presentation will be from West Scarborough Community Legal Services. Good morning.

Ms Sheeba Sibal: Good morning. My name is Sheeba Sibal. I'm a community legal worker at West Scarborough Community Legal Services, a non-profit organization which provides free legal aid and advice to low-income people who live within our catchment area, which is west Scarborough. We are bounded by Victoria Park on one side and Midland on the other, going up to Steeles and down to the lake.

Today I will be talking only on the aspect of Bill 20 which deals with two units in a house, more popularly known as basement apartments or accessory apartments.

We work closely with tenants, and prior to the passage of Bill 120, which Bill 20 seeks to rescind completely, we found in our experience that it was very difficult to advise tenants who were living in second units because second units were illegal in Scarborough, as in many municipalities. When a tenant had a problem with the landlord not fixing the place, not maintaining it up to health and safety standards, the question was: Does the tenant want to save his home or save his life? Basically, it boiled down to that, if it was a health and safety issue. If the landlord refused to do any repairs, then the recourse the tenant had would be to call the property standards to make the landlord do the repairs. If the landlord refuses to follow the work order, property standards can just close the unit because it is illegal, period; the tenant loses the house. If the tenant chose to go to court, to get the court to enforce his or her legal rights, the courts had two views. Most of the decisions in the courts were that because second units were illegal, therefore not protected under the Landlord and Tenant Act, tenants lost the house, their home, basically.

With Bill 120, that issue was resolved because across the board, with certain exceptions, most second units were made legal. From the side of the homeowners we

found also that those homeowners who did want to get their houses checked out to see if things were okay and wanted a second unit for a second income or a supplementary income would fear to call the city because that meant they would get a notice to shut it down. With Bill 120, the situation had become clearer and that fear had gone. Now Bill 20 comes and rescinds Bill 120.

I'd like to examine the impact of the provisions of Bill 20 in the light of the commonsense approach and the philosophy of less government, which this government says is its cornerstone.

It is a commonsense view that simple laws and laws which reduce complications are the best. However, Bill 20 will complicate matters for tenants, homeowners, municipalities, courts and legal clinics. It will increase the paperwork for homeowners and will lead to more government instead of less. Let's see how.

With the implementation of Bill 20 there will be four categories of homes or houses created, which could be legal or illegal, depending on when they were constructed, when the permit for construction was issued and in which municipality that particular second unit is situated.

Under this bill, those units which existed prior to November 16 will be deemed to be legal, provided they were legal under Bill 120. That's the grandfathering clause you have. Those units which were under construction or were constructed after November 16, 1995, but on the basis of an unrevoked permit which was given prior to November 16, will also be deemed to be legal, again provided they met the requirements of Bill 120. The status of those units which are being constructed or have been constructed on the basis of permits given after November 16, 1995, we don't know. That will depend on the interpretation of the courts, because if a municipality cannot deny an applicant a permit, since Bill 20 is not yet law, Bill 120 still prevails. The legality of those units which will come into existence after the passage of Bill 20 will depend upon the municipality permitting the units under the power given under Bill 20, which is, if the municipality wishes to allow you to have a second unit, then it will be legal. If you build it without permission, it will not be legal.

Apart from this, Bill 20 gives power to the municipalities to get these units registered. The wording is "may register." It doesn't say that the municipality will have to make sure that these units are registered. It also gives power to the municipality to make such bylaws to enforce registration, to see that compliance is made to property standards. They can also fix a one-time registration fee. **1010**

Let's see how this impacts on the tenants, homeowners, municipalities, courts and legal clinics.

Tenants: Let's talk about tenants first, since we represent tenants most of the time. The biggest issue we see with tenants is that at this point in time there are not many vacancies, which is well known. It's less than 1%. So one of the avenues for a tenant to find a home would be in a second unit.

After Bill 20, the tenant goes to the landlord, seeks to rent the place, wants to be sure that this particular unit is legal and will have to ask several questions to find out whether or not this unit is legal. The landlord would

probably just refuse this person. He's being too nosy; he knows his rights too much maybe. We don't know, but from experience we know that the less the tenant asks, the more chances the tenant has to get a place.

The second problem: Once in the unit, if he has a problem and does not know whether this unit is legal, the tenant is again going to fear whether or not he should call the city to see to it that the place is in good state of repair, that the landlord is made to repair the unit or keep it up to health and safety standards.

The other problem the tenant may face is that in some wards units may be permitted, in some wards units may not be permitted, but there's nothing to stop landlords from making units without permission. So how is a tenant to find out in which ward it's legal and in which ward it's not legal? It's going to lead to too much confusion. It's leading to more complications.

Homeowners: Under Bill 20, if the municipality chooses to get the units registered, the landlord will have to register it, but the landlord will have to show that the unit existed prior to November 16, 1995. How's he going to show it? There has to be some procedure. Municipalities are going to have their own requirements. Every municipality may have a different requirement. If a homeowner happens to have homes in different municipalities, what is he going to do? He'll be dealing with several municipalities with different sets of criteria to prove that his unit was there before November 16, 1995.

If his unit doesn't get registered and he has to appeal, the only recourse is that he goes to the Ontario Court (General Division). Going to court is not a cheap remedy. If a homeowner only owns one home and is trying to rent out the basement where he or she lives, it's going to be too expensive. It may not even be worth doing it.

The other aspect which we see is of a prospective home buyer. In this market it's not easy for someone to buy a house. A prospective home buyer may be willing to invest in a house if there's a chance of getting a supplementary income to pay off the mortgage. That could come from a second unit. But if this is the procedure, if this is what he has to go through, the homeowner may or may not be able to get a second unit legalized in his home, and that will rule out that possibility too.

The fourth problem that we see is setting up registries in different municipalities which will have the power to impose different standards and bylaws. That means another set of bureaucrats that a homeowner with properties in different municipalities will have to deal with. This is not less government, but more.

Municipalities: If municipalities decide to get the second units registered, they may have to appoint a registrar to register two units. To enforce the relevant bylaws, they will also have to designate one or more persons, as set out in section 59 of Bill 20.

In this era of budget cuts and reduction of deficits, where does the province expect the municipalities to come up with the money to pay for these persons? It can only mean that either the municipality will not pass any bylaw for implementing section 59 of Bill 20 or will divert the personnel from other required services to effectively enforce the bylaws.

If the municipalities do not implement section 59 of Bill 20, the whole purpose of rescinding Bill 120 and grandfathering the second units in existence prior to November 16, 1995, becomes redundant. If the municipalities pass the bylaws but do not assign a person or persons to enforce them, again the whole purpose of Bill 20 becomes redundant and is an exercise in futility. What is the point of wasting taxpayers' money on a toothless and ineffective bill? This goes against all common sense too.

Courts: Tenants living in second units and landlords of such two-unit homes are bound to go to court under the Landlord and Tenant Act when the disputes arise. However, now there will be another issue the courts will have to decide, that is, whether the second unit is legal. The courts will have to decide this in those cases where municipalities have not set up a registry for two-unit homes. This translates into more time taken for trials of such cases. This will be particularly true of second units which are being constructed or have been constructed on the basis of permits given before November 16 but revoked because of the bill, or permits given after November 16.

Again, with the pending budget cuts which this provincial government is set on, the courts will be expected to do more with less. The officials of the courts will have to find a way out. In such a scenario, denial of access to the justice system to poor tenants or to small homeowners is not only conceivable but is a reality. This is not simplifying matters. Bill 20 is complicating it.

Legal clinics: After the passage of Bill 20, if a tenant calls on us to find out their rights to enforce the Landlord and Tenant Act, especially in relation to health and safety and property standards issues, we will have to first find out whether the unit is legal. This is not going to be an easy task, as tenants will probably not know. In such a situation, our mandate to help a poor tenant will become more difficult and time-consuming. To get the relevant information, we'll have to spend more time getting details before we can give any advice. We will not be able to advise or help tenants trying to enforce the property standards, health and safety bylaws, as that may lead to the tenants losing their homes. This is going to lead to dangerous conditions, including an increased risk of death by fire.

There are other issues I would like to address too. The first is discrimination. Blanket power given to municipalities to permit or not to permit the existence of two-unit houses as and when they please, without any guidelines, can be open to blatant abuse. This bill gives too much power in the hands of a local government which can be swayed by people with the NIMBY syndrome or who have racist attitudes or are merely prejudiced against the poor.

In Scarborough, Mr Wolfgang Droege, a known white supremacist, contested elections from ward 1. At the time of the last municipal elections, there were 18,497 registered voters. Mr Droege obtained 802 votes. Mr Harvey Barron, who won the election, obtained 4,915 votes. The fact that Mr Droege contested the elections and obtained 802 votes shows us that there are people who unequivocally support the views of white supremacists. There are

probably more than 802 people in ward 1 and other wards who hold similar views. Such persons can raise vocal objections to neighbours who may want to put in second units merely because their colour of skin is different.

To support my point that racism exists, I will quote some observations of a particular community group of Scarborough. I quote from the submission to the standing committee on general government regarding Bill 120 by the Scarborough Access to Permanent Housing Committee, dated February 8, 1994. On pages 7 and 8, under the subheading "Discrimination," it was stated as follows:

"Our experience has led us to a more sinister aspect to the issue of legalization of accessory apartments. It is the issue of discrimination that verges on a level of defamation and hate. On this issue we have encountered racism, classism, sexism, homophobia, anti-tenant and anti-youth expressions.

"We have encountered opponents of legalizing accessory units who proffer the cultural background and colour of one's skin as reasons to prohibit accessory apartments. A deputant at a Scarborough council meeting on the matter stated that he did not want coloured people living next to him in a basement apartment. Council did not challenge nor reprimand him for these statements.

"In a separate meeting, a member of Scarborough council said to a delegation which included Scarborough Access to Permanent Housing Committee members that he did not feel that certain people of African origin would 'fit into' his 'community' and that if basement apartments were legalized, his 'community' would be overrun by such persons."

1020

Obviously, if we have councillors in Scarborough who hold such views and we have residents with such attitudes, the fear that powers granted to the municipalities without any guidelines are open to abuse is valid and real. This may be true for many other municipalities as well.

Shortage of housing. In a February 1996 article by business reporter John Spears in the *Toronto Star*, it was pointed out that there is going to be a serious shortage of rental apartments in the next two years. The vacancy rate at present is less than 1%. No new rental apartments have been built for a long time.

According to Greg Lampert, who prepared a study on rental housing policy last fall for the Ontario government, 22,000 condominiums flooded the rental market in the late 1980s. Then the Ontario government financed a big wave of non-profit construction in the early 1990s. However, both of these sources have dried up. According to Mr Lampert, new owners are buying up the condominium surpluses and taking them out of the rental market, and this government has stopped funding non-profit housing.

In light of the above, it would have made more common sense if this government had encouraged another private source of housing, that is, second units in already existing homes. It would have made more common sense if this government had made provisions in Bill 20 encouraging homeowners and municipalities to create second units. This could have been done by:

Not repealing the provisions of Bill 120 relating to two-unit houses;

Laying down time lines for the municipalities to get units registered;

Ensuring that the least amount of red tape would be required for such units to be registered, either at the request of the landlord or the tenant;

Encouraging and supporting municipalities to direct appropriate resources to ensure the adherence to property standards, health and safety standards bylaws in such second units;

Amending the Planning Act appropriately so that the municipalities will have greater power to readily recover the costs they incur repairing private residential premises in case of non-compliance of work orders; and

Amending the Planning Act appropriately so that the municipalities can exercise collection procedures available to creditors under the Execution Act, including those procedures permitting the auction of the property.

Job creation and economic development. It is the opinion of financial analysts that investing in a home for the purpose of investment to build equity is a thing of the past. Buying a home in this economy is still a distant dream. It is a fact that sales of new and used homes are low. There is at this time no incentive to prospective home buyers to buy.

One incentive to a prospective new home buyer to take a plunge in the housing market in an area of his or her own choice could be the prospect of financing part of the mortgage by renting a portion of the house. This will not only boost new home construction but also encourage renovations in older homes. This translates into job creation and economic development. However, the introduction of Bill 20 has done away with this source. This goes completely against the government's objective of job creation and economic development. It seems that Bill 20 sacrifices common sense at the altar of political expediency.

In summary, we recommend: The provisions of Bill 120 relating to two-unit houses should not be repealed by Bill 20; and the provisions of Bill 120 should be strengthened by amending Bill 20 to encourage single-family homeowners to bring up to standard second units and build new second units and bring them into the rental market.

The above can be achieved by:

—Laying down time lines for the municipalities to get the second units registered. That will ensure that the municipality knows where these units exist and will know how to enforce the bylaws.

—Ensuring that the least amount of red tape would be required for such units to be registered, either at the request of the landlord or the tenant. The reason we recommend tenants also is that sometimes landlords who know their units don't meet standards do not want to incur the expense and are using that particular unit just for purposes of making more and more money without investing in it. A tenant will be more interested in getting it registered so that he or she can be protected under the Landlord and Tenant Act and get the property standards bylaws and health and safety bylaws enforced.

—Encouraging and supporting municipalities to direct appropriate resources to ensure the adherence to property standards and health and safety standards bylaws in such second units. This is again to address the issue which a lot of municipalities are raising, that second units are dangerous, are fire traps. Yes, they are fire traps, because property standards and health and safety issues have not been addressed in these units. One way would be to get the municipalities to have the resources to do it.

—Amending the Planning Act appropriately so that the municipalities will have greater power to readily recover the costs they incurred repairing private residential premises in cases of non-compliance of work orders. That has been another complaint of municipalities, that if they do enter the premises and do the repairs, they cannot recover the moneys. Therefore, we're saying amend; give them the power so they can do it and recover. How they can recover is by amending the Planning Act so that the municipalities can exercise collection procedures available to creditors under the Execution Act, including those procedures permitting the auction of the properties.

The above recommendations we believe will benefit the community at large, including homeowners, tenants, the construction industries, the unemployed and the economy of Ontario.

The Chair: An extensive presentation. We actually have less than a minute per caucus. I don't know if any of the members wish to ask questions. We'll start with the government members, if you do, but please respect the time lines of the other groups coming after.

Mrs Barbara Fisher (Bruce): Thank you very much for coming before us this morning. I represent a rural riding where we also have a need for second-unit apartments. We also have municipally elected councils who have shown responsible decision-making in the handling of these. We have tools available in the Planning Act, we have the official plans, municipal bylaws, the site plan agreements, plans for subdivision; we also have fire regulations etc. The municipalities would have an option to register these units as well. Why do you feel Scarborough council can't do that as well?

Ms Sibal: Because of the way Scarborough council has behaved in the past. I pointed out the quote which I read. One particular Scarborough councillor certainly had views which said he did not want African people in his community. We don't know how many other councillors have that view. We know that Mr Wolfgang Droege contested elections from Scarborough; 802 people supported him. They were there and they voted for him. We don't know how many more people have similar views. We fear.

If the council is given the power to deny or to give permission at the whim of neighbours, that is not going to be a fair process. There is no guideline as to what procedure this council is going to follow to grant a second unit. Under Bill 120, guidelines were laid. Zoning bylaws permitting, if the parking space was enough, if the height was the right amount, second units had to be permitted. There could not be a denial of making a second unit.

No one is forcing anyone to make a second unit. If the homeowner or the landlord thinks it's too much of a

problem, they're not going to make it. But when the process comes to the municipal council where a homeowner has to go and ask permission to make a second unit, where it can be brought forward and the neighbours who raise objections can say no to it, and the councillor refuses, for political expediency or for personal attitudes, or the council refuses, it will not be a fair process.

Mr Hoy: Thank you for your presentation. We don't have much time, but I would like to make a comment. I find your submission, when you're talking about discrimination, to be very sad indeed. It's an appalling situation, to say the least.

I also want to confirm with you that I too believe that having a home in this area is a dream for some people. I have had people in the area tell me that themselves, that they have absolutely no hope of ever being able to afford a home in the markets that exist. You offer an excellent overview of the situation in regard to the topic here and you offer substantive solutions, and I thank you.

1030

Mr Howard Hampton (Rainy River): Maybe you can help me out on this. It's my understanding that at the time Bill 120 became law it was discovered there were about 100,000 illegal second apartments in the province.

Ms Sibal: Yes. It was discovered prior to Bill 120 and that was, we hope, one of the reasons, because it made no sense to have those units illegal. They were there; they were in existence. People were living there in unsafe conditions.

Mr Hampton: So the reality was that municipalities were in effect allowing, or ignoring the existence of 100,000 illegal units. In some cases those units didn't meet the fire code, didn't meet electrical codes and didn't meet the building code.

Ms Sibal: Yes.

Mr Hampton: If this legislation passes and we go to the scenario you have painted for us here, do you think illegal second units will disappear? Do you think there will be more illegal second units? What do you think will happen?

Ms Sibal: My personal opinion is that when people need houses, when people need to live somewhere, they're going to look for places to find it. Homeowners who have the place will produce the place for them to live in. In this economy, when the vacancy rate is less than 1%, where are these people going to go? One of the resources will be living in second units and homeowners will make them available. Illegal units will come into being, not because people don't want to live in them but because the government says they are illegal.

The Chair: Thank you, Ms Sibal. We appreciate you taking the time to make a presentation before us this morning.

Ms Churley: I just have another question between presentations here. Even though I see that Dr Galt, the parliamentary assistant to the Minister of Environment and Energy, is not here, I'm wondering if his office has tabled the list of stakeholders he met with yesterday which I requested after he brought it up?

The Chair: The clerk indicates he has not received anything as yet.

C.N. WATSON AND ASSOCIATES LTD

The Chair: Our next presentation will be from C.N. Watson and Associates. Good morning.

Mr Cameron Watson: I would like to take perhaps half the time to walk you through the presentation that I think you all have before you. First of all, a little bit of information as to who we are.

We are a small land economics consulting firm, 10 people, Toronto-based. We've been in operation for 14 years. We have done this kind of work for some 250 Ontario municipalities, school boards and utilities, as well as a couple of dozen land developers and some cities across Canada. As you can see from page 2 of the presentation, there is a list of 146 municipalities and school boards for which we have done full Development Charges Act studies over the last five years. I think it is therefore fair to say we know something about that particular topic.

What we are seeking to do today is to provide constructive input to this committee on a very limited segment of Bill 20, that is sections 47 to 57 and section 74. Those are the sections that deal exclusively with amendments to the Development Charges Act. The submission is organized into four parts: The first touches on the purpose of the bill. The second is asking and answering the question, are the problems the bill addresses real? Then it looks at, what does the bill change? The fourth is, what new problems is the bill creating? It's creating problems today because it's proposing retroactive legislation. The third chapter is in the form of a very brief conclusion.

Let me start with the question, are the problems that the bill is addressing real? The intent of the bill, as I understand it in the Development Charges Act part of the bill, is to remove an obstacle to growth. The obstacle is presumably a development charge that is too high or is going to be increased so that it will be too high, and that's retarding housing development, or development in general, and that is not doing everything we can to stimulate employment. We certainly support that objective without question.

The underlying assumption for introducing close ministerial control over any changes in municipal development charges bylaws is, as I say, presumably that the charges are too high and they're moving upward and this is needed to curb that.

If you would look at figure which is pages 5 and 6, that summarizes some research we have just conducted. We've triple-checked this and we have extensive background to support this, and what it does is it looks at what has happened to development charge amounts in 54 of the largest urban centres in Ontario. As you can see, we have the large urban centres from virtually all of the regions, and over on the right-hand side at the bottom we've added a number of large centres across the province.

The table is set up in five columns, and from the left we have "Outright Decline in DC." Those are municipalities that during the past four years have actually decreased the charge. The charge today in absolute terms is lower than the charge it was in 1991. You can see who they are, and at the bottom right-hand side you'll see that

12 of the 54 have actually decreased their charge voluntarily during that period.

The next column is "Decrease in Real Terms"; for example, those who chose—once again voluntarily—not to index their charge each year. That's permitted and invited by the statute. The purpose of indexing, of course, is to ensure that the purchasing power of the development charge remains constant as construction prices go up. Obviously, you need to compensate for that. There are 22 of the 54 municipalities that in the interests of stimulating development have chosen not to index the charge, or have not indexed it each and every year, so that their development charge in real terms, in real purchasing power terms, has declined over the last four years.

Then you have the middle column, "No Change Other than Indexing." That literally is no change in the real magnitude of the development charge. We have 15 in that category.

That only leaves five of the 54 major municipalities in Ontario that actually, in real terms, have increased their development charges in the past four years. In three cases these are relatively small charges: Vaughan, Cambridge and Sarnia. In a couple of those cases, the increase between 1991 and 1996 simply occurred because they phased in the new charge that they adopted in 1991. They didn't put it in place fully at one point in time. In the interest of assisting development they phased it in, so it's a little higher in 1996 than it was in 1991.

There are larger increases in two of the municipalities: Oakville and London. We did both of those studies. In the case of London, that charge was done in close concert with the development community and it was not appealed; it was deemed to be reasonable. In the case of Oakville, the charge was appealed but the amount eventually arrived at was arrived at through a settlement.

My point from all of this is that this material, and we could go on and add to it, does not suggest to me, I don't think it would suggest to anyone, that we have an unreasonable situation in Ontario in terms of how municipalities have been handling development charges. I don't see any sign of abuse of power or any absence of concern for development.

The next question is then, why did development charges increase so much between, say, 1985 and 1991? They did increase substantially. In some cases they tripled from a relatively low base. There are four very good reasons why they increased during that period, and those are mentioned on page 8.

First of all, inflation was 28-36%, depending on the index you use. Housing prices during that interval went up 70%. I think that's beside the point in a way, but it's background.

1040

The second point, and the point that is often missed by those who are critical of development charge size, is that there was a statutory requirement for costs to be moved from development agreements into the development charges regime.

Subsection 45(1) coupled with subsection 3(7) of the Development Charges Act required that to be done. It prevented a municipality from using a subdivision agreement to ask a developer to pay for work external to the

plan of subdivision, and it prevented a municipality from asking a developer to pay for oversize works within a plan of subdivision, so you \$2,000, \$3,000 per dwelling unit removed from one pocket and put into the other pocket, namely, on to the development charges. You had development charges moving up for that reason—not one dime of additional cost attributed to that; it's just moved from one area of collection to a second.

The third reason is that the Development Charges Act considerably broadened the services for which charges could be collected. In particular, schools and hydro facilities, and also rolling stock and furniture and equipment and so on, were explicitly added within the act, and municipalities and school boards have merely proceeded to recover growth-related costs in that way. Once again, I don't see any sign from what occurred of unreasonableness or abuse of power; it's simply municipalities following through on the legislation that's been provided to them.

The third point is, are development charges already unacceptably high? I won't spend much time on pages 9 and 10, but it seems to me that there are at least half a dozen fundamental questions that have to be asked, ought to be asked in that regard in terms of looking at development charges as a user-pay, benefits-received type of system, and examining closely what happens if you reduce the charges by \$1,000 per unit, for example, or you increase them, whether there's a magic number that development charges shouldn't go beyond etc.

Our point here is that before you make fundamental changes to what we are characterizing as one of the most reasonable and thorough statutes of its type in North America, the Development Charges Act, it would seem to me that you would want to answer, have answers to these questions, and I don't believe that these questions have been properly addressed and they ought to be.

Are development charges likely to increase in the future? I think there are a number of reasons—particularly when you talk about services other than sewer, water and roads, namely, recreation and parks and administrative facilities and libraries and that kind of thing—for believing that development charges are going to fall, have been falling and will fall for those categories, for the simple reason that the act requires charges to be based upon service standards and the service standards are falling.

The service standards are falling because development is decreasing, because grants are decreasing, because affordability is decreasing, and frankly because a number of municipalities are becoming even more reasonable in terms of how they address all this. They are concerned about economic growth and ensuring they capture their share of it, and they are looking very carefully at the standards for which they are recovering development charges.

For the studies we've been doing, we are seeing in many instances those service standards moving down and that inevitably will bring down development charges. It's not bringing down development charges, however, because all of that has been brought to a complete and utter stop by this bill, Bill 20, because Bill 20 says that retroactively to November 15, sections 3, 4 and 5 of the Development Charges Act will be repealed and that the

minister has the right to approve or not approve of any change.

What that says to municipalities is that there's no point in doing anything right now, because whatever they do right now will be rendered ultra vires by the passage of this particular bill, or rendered null and void, I guess, by the passage of this particular bill: "There's no point in proceeding at this point in time. We might as well just wait."

The other half, and I guess the answer to that question is that certainly as MTO grants are with withdrawn and other grants are withdrawn, there will be some upward pressure on the cost of hard services. But that's an inevitability. That has to be dealt with by municipalities in terms of how they're going to finance growth-related capital costs of sewer, water and roads. I don't see any signs of unreasonableness in the approach being adopted, but the funding has to be found and development charges have to play a reasonable role.

Another question is, have municipalities been failing to account properly for development charges spending? One section of the Development Charges Act amendments of this bill puts in place the requirement that municipalities report annually on expenditures, revenues and credits. We're simply making the point here that that's a desirable thing to do, but in our view it isn't going to change anything. That already is a municipal requirement. It's in the regulation. It's something the municipalities, in the vast majority of cases, are all doing. It certainly doesn't hurt to move it from the regulation to the act to give it a little more prominence, but I just wanted to make the point that municipalities are very careful about how they are reporting on the use of their development charges. We have a couple of examples of the sorts of statements produced annually by municipalities in appendix A.

On page 12, what does the bill change? I think I've already touched on that. Actually, on page 13, indented, we have a summary.

On page 14, what new problems is the bill creating? I have touched on those, and I think they go to the retroactivity clause. What's occurring is that the bill has not been proclaimed so the minister does not currently have development charges bylaw approval powers, but when the act does come into force, the sections of the Development Charges Act which would be used at this time to make any change to bylaws will be repealed. That will invalidate whatever action was taken by the municipality unless the minister subsequently approves of the action retroactively and unless the unapproved time periods can be covered off. In other words, the bill will be passed and the minister's approval presumably won't be the same day; there are gaps, there are problems, there are uncertainties.

You have 150 municipal bylaws, or more, expiring this year. As I explain at the bottom of page 14 and on page 15, you have dozens and dozens of municipalities that need to do something today with their development charges in order to provide services for growth. These are municipalities whose development charges are not of complete coverage. They weren't able in 1991 to know exactly what had to be charged for all storm drainage requirements or all sanitary sewer requirements. So there

are gaps in their bylaws and they now are coming back to try to fill those gaps, in Cumberland, in Niagara-on-the-Lake—I have a couple of dozen examples in appendix B—but they can't fill the gaps because of this bill. This bill has brought everything to a halt.

It's my submission that, although we support the spirit behind the bill, we think its effect is the reverse of what it is set out to do. It is set out to remove obstacles to growth and stimulate development, and I don't think that's what it's doing. I think it's doing exactly the reverse, which brings us to the conclusions, page 16.

I think the first and second reading of this part of the bill has been a useful wake-up call to municipalities and to people like ourselves. It does emphasize and re-emphasize the importance of not having development charges or any other obstacles to growth impeding development and the employment that goes along with it. We do have the greatest respect for the Minister of Municipal Affairs and for his staff and for what they're trying to do to improve a situation that does need improving in terms of this particular industry.

However, we think the amendments under Bill 20 do not have the potential for providing net benefits to the province. As a result, we believe that part of Bill 20 should be fundamentally reconsidered, and we think, with respect, that should be done on an urgent basis. Personally, I don't think a few months from now or next summer, when all of this is finally decided upon, is sufficient. Something should be done immediately.

1050

Mr Gerretsen: It's all so ironic, isn't it? Here we have a government that wants to give municipalities all the powers because they've cut off their grants, except that they also want to do a favour to their friends in the development industry, who basically don't want to get involved in development charges at all because it raises the cost of their development and would rather have the general taxpayer pay for all these costs. A government that believes in municipal autonomy would in effect, through this act, not allow municipalities to do what they would feel is right as far as development charges are concerned. I should indicate that I'm from a community that has very little development charges at all. We're basically just involved in infilling etc, so I have no axe to grind with anybody.

I'm very struck with your comment that this bill has brought everything to a halt and that this government, that claims to be doing everything in order to get the economy moving etc, in effect is doing the exact reverse. Could you expand on those comments you made about municipalities not doing anything with respect to the developments that are in front of them because they really don't know what the situation is with this act or with development charges in the future?

Mr Watson: There are two aspects to that. One is that the municipalities are all facing a deadline relative to their development charges bylaws, that is, a five-year lifetime. That lifetime, in most cases, expires in the fall of this year, and therefore all the municipalities were impelled and had an incentive to go back in and update things and make the changes that had to be made. They no longer have that incentive because this bill permits

them to remove the five-year time horizon and to give their bylaw indefinite life.

Second, the municipalities facing area-specific situations—I'm not here saying that each and every one of them is doing nothing, because that's not the case; we are working with some of them. But I'm saying the bill is making it much more difficult, much more uncertain and much more time-consuming to know what to do.

For example, in Cumberland, where I'm with council next Tuesday, there's a major growth area. We now have the costs of servicing it, substantial costs. They're not in the present bylaw, so we would like to go back and replace the bylaw, but the sections of the Development Charges Act under which the township of Cumberland would be acting have been deleted by Bill 20 retroactive to last November, and they've been replaced by a provision that the minister will decide whether or not what they're proposing is satisfactory.

But of course the minister can't decide today, because the bill hasn't been passed, and the bill won't be passed, as I understand it, until possibly the middle of this year. We don't know when it'll be passed, so we are in a state of limbo, a moratorium state, for that kind of situation. Some municipalities are—well, I don't know. There are going to be all kinds of different responses, but one response will be to sit on their hands.

Mr Gerretsen: Maybe word should go out that the Minister of Municipal Affairs is anti-development.

The Chair: Sorry, Mr Gerretsen, time's up. That's a minute over, actually.

Mr Gerretsen: On a point of order: We started 20 minutes late today, and I've noted that every delegation—

The Chair: What has that got to do with the 25 minutes allocated to each group?

Mr Gerretsen: That's exactly my point. If you'd let me make my point of order, maybe you could then rule on it. We started 20 minutes late, and there's been an attempt to get that time back by making the delegations shorter and shorter, which in effect is cutting into our question-and-answer time. I suggest that tomorrow we start right at 9 o'clock whether the government members are here or not. We all saw these little caucuses going on beforehand among government members in terms of whether they were here in sufficient numbers etc, but we have our right to question the delegations and to take our 25 minutes.

The Chair: You're absolutely right, Mr Gerretsen, and not one group has gone less than 25 minutes. That's not a point of order.

Mr Gerretsen: You're incorrect on that, Mr Chairman. You wouldn't know because you weren't here at the beginning.

Ms Churley: Mr Watson, I wish we had received your comments earlier on in the process, because a fair number of developers, not surprisingly, have come to speak to us in support. They obviously have a self-interest; they want to spend as little money as possible in their development plans. It's interesting, and I think part of the problem here—we just had Winch Planning and Development Services tell us that they feel removing the right of appeal to the OMB, for instance, for minor variance applications will likely increase the number of rezoning

application appeals. You say that in this case the government again could be inadvertently, I think, actually going against the grain of what it had hoped to achieve here, and that is speeding up the process and cutting red tape.

Part of the problem is the fact that the government moved so quickly on its agenda that there was very little consultation and therefore a real lack of understanding of the implications of what it was doing. In cases like this, I would suppose that the government will reconsider what it's doing here if it can be convinced that in all likelihood this would be the opposite of what it hoped to achieve. That is, I understand, what you are saying, and that you are suggesting—and this I want to be clear on—that they should reconsider this part of the bill. Are you saying they should just remove it entirely and keep it at the status quo for the time being?

Mr Watson: That's my belief in terms of what they ought to do, but of course I'm not privy to the many things that go into making this decision.

Ms Churley: I just want to be clear on your recommendation, because I'm not entirely clear. You're saying it should be removed from this bill.

Mr Watson: Yes.

Ms Churley: In your presentation, you made it clear that you think there are a lot of misconceptions about the status quo; that the status quo is actually working fine and there is no need for change at this time.

Mr Watson: It's not perfect, but I think it is working fine. As I say, I think the process has been benefited by the bill to date—it was a wake-up call—but it's time to get back to business.

Mr Jerry J. Ouellette (Oshawa): I met with a number of builders prior to these hearings, and they expressed the concern that although the development charges were collected, there were no statistics or figures to show that those charges were actually spent in the area they were collected, so any fees collected could be spent or distributed throughout the community and not in the immediate area. Do you have any figures to back that up or to contradict that claim?

Mr Watson: The question is whether the development charges collected are spent in the physical area in which they were collected? There is a statutory requirement, section 16 of the act, that requires a municipality to spend the charges for the purpose for which they were collected. Every municipality has a clear policy report which makes reference to service standards and to projects, and there's a statutory requirement that it follow through on that. Not all those projects are going to be in the immediate area. In some cases, you've got central services. There may be an expansion to a central library. There may be reasons for spending money in areas other than the immediate growth area, but that ought to be consistent with what was put before the development industry and the public when the bylaw was passed. They then had an opportunity at that time, through a series of public meetings and appeal rights and everything else, to say: "We don't think your capital spending program is valid. We think you ought to substitute project A for project B." But once they've gone through all that, the municipality simply follows through on that; it's required to.

Mr Ouellette: So you don't have any figures to show where the actual spending is done, and you don't have a problem if the spending does not take place in the immediate area that it's collected?

Mr Watson: I would only have a problem if the spending were not, in a fundamental way, consistent with the plan that underpinned the development charge in the first place. I think you'd have to get back into each and every municipal situation to decide whether there was a problem there. But it's certainly a difficult area; it requires scrutiny and monitoring. I don't say all municipalities are perfect in that area; they're not.

The Chair: Thank you, Mr Watson. We appreciate that. Our 27 minutes are up.

1100

GEORGIAN BAY ASSOCIATION

The Chair: Our next presentation will be the Georgian Bay Association. Good morning.

Mr John Birnbaum: I'm John Birnbaum, executive director of the Georgian Bay Association. By way of introduction, we're a voluntary umbrella group representing 25 associations and about 5,000 families on the eastern and northern shores of Georgian Bay and the adjoining inland lakes. We've been actively involved in the consultation process through Sewell, which resulted in Bill 163, and with the new land use planning system consultations of the Ministry of Natural Resources. Up until now we had not participated in any of the discussions around Bill 20.

It's our understanding that the Federation of Ontario Cottagers' Associations will be making a submission to you in another location at another time representing the overall provincial interests of cottage country, but we would like to share today our views, since we represent a significant number of ratepayers and some unique planning challenges.

Our presentation will be made by two volunteers from our association. Mr Mario Buszynski is the volunteer chair of our land use and planning committee, and Mr Rod Northey is a volunteer member of Georgian Bay Association's environment committee. I'll turn the microphones over to them.

Mr Mario Buszynski: I am Mario Buszynski. I'd just like to give you a little bit of a background, a regional context if you like. Our member associations come from the district of Manitoulin, Sudbury, Parry Sound and Muskoka. With the exception of the district of Muskoka, the government organization and planning expertise in these other areas is based for the most part on contract planning staff. The databases aren't very comprehensive. I was in Simcoe county yesterday and they have a very comprehensive geographic information system program. They're developing a very comprehensive database. The Ministry of Natural Resources is plugging into it. You'll have maps that will identify areas of environmental concern. I'll talk a little bit more in detail, but in our area—it's a very fragile area on the Canadian Shield—data are incomplete. For the most part, planning approvals rely on the input of the Ministry of Natural Resources and specialized consultants.

There's permanent snow cover for a large part of the year and you can't get on to the properties to see if they're suitable for the placement of septic systems. In many cases you have to go by boat or long, poor-quality roads. Access is a problem. So in a number of these issues we'll talk about, in streamlining the process, how it can make it very tough in cottage country.

We'll look at Bill 20 and compare it a little bit to Bill 163 in three areas: streamlining the planning process, empowering the municipalities and protecting the environment.

Just to shake you up, I'm going to start with concern 2 as opposed to concern 1, looking at the "have regard for" provision, which I'm sure you have heard a fair bit on already. However, our concern is that there are different legal interpretations and applications of the term "have regard for." We're concerned that in fact you may not streamline the process, you may bog it down, because there may be Divisional Court appeals.

In the old Bill 163 wording, "be consistent with," I think a lot of people were thrown off by the thickness of the implementation guidelines for the policy statements, and I agree they shocked me somewhat as well. However, they did try to provide a clear direction. We're not certain that we have a clear direction, and we're recommending that there be some clarification to the legal intent of the term "have regard to" related to the provincial policy statements. Otherwise, we feel that it's not going to streamline the process.

Mr Rod Northey: Good morning. My name is Rod Northey, and I am going to now get back to concern 1. I asked Mr Buszynski to help me out on going to concern 2, because I think when you look at what you have before you for concern 1, what we really need you to consider is the integration of a number of problems raised by Bill 20.

The main point we're trying to make is that although it may appear that letting the Ministry of Municipal Affairs have sole jurisdiction to decide whether things should go to the OMB at the ministerial level—in practice that's going to lead to a very complicated system of interministerial discussions and, we think, in the present climate, to an abdication of the province doing anything at the level of dealing with planning approvals.

I'd like to just explain that in the context of a couple of the ministries that deal with the environment, which is of major concern in the Georgian Bay area. Presently, you have the Ministry of Natural Resources and Ministry of Environment and Energy both with some role over the environment, and not particularly clear roles between the two of them of what they're doing. But the most important point is, in terms of what they are doing today and have been doing, it's not entirely clear what they have to do. The standards are not clear; there is a great deal of discretion.

What that means is, if you look at the standard and then you come through Sewell, which has tried to create an approach where because of a requirement to be consistent with what was set out there were in fact provincial planning standards, we now have a situation where you've moved back away from "be consistent with" to this "have regard to" language, which in our

view takes away the point that there are standards. It means there are a lot of things everyone's going to have to go and look at—that includes the provincial ministries—but there's really no stopping point. There's nothing where anyone can draw a line in the sand and say, "You cannot cross here." Because at the end of the day everyone can have regard to a number of different documents, and we're going to have to all go to the Ontario Municipal Board, where it will be the final arbiter and say: "Here's the line in the sand. Yes, everyone's had regard to a number of things, but this is where we draw the line."

What we're trying to say here is, with your one-window approach, if you look at what's going to happen without the clarity of standards—we use the example of drinking water standards. The Ministry of Environment says, "We think we've got a concern with this proposal on the drinking water area." Now, the developer or somebody says, "Well, we've had regard to the policy statements." The ministry says, "Yes, we've had regard to them too, but we think the standards are what apply here," but the developer says: "Well, there aren't standards. It's just required that we look at these things and have regard to them." So we go back and forth. Then the developer says: "We don't agree with where you're going on this. On your one-window approach, we see that you need to get the Ministry of Municipal Affairs to agree with whether you are right or wrong."

Presently, what can happen is Ministry of Environment can say: "We don't agree with you. We're going to file an appeal." So there's an incentive at the front end of the process to try to get the two to at least come to a reconciliation. Well, what happens here? Is there a streamlining with Municipal Affairs involved? No. What you're going to have is that Ministry of Environment needs to consult with Municipal Affairs. Municipal Affairs will then need to get itself involved in a process where presently it has no involvement. So instead of having two ministries deal with the environment, we're now going to have three ministries every single time there is a controversy on environmental matters in the areas of concern. We think that's inconsistent with streamlining.

More to the point, when you look at what the practical effect will be when you move from Ministry of Environment getting frustrated because Ministry of Municipal Affairs is not letting them go and launch these appeals, you're going to get the Ministry of Environment saying: "Why are we bothering? Why are we even bothering to review these appeals? We know the minute it goes over to Municipal Affairs, they're going to stop us, so why bother reviewing this stuff? Let them go forward; let Municipal Affairs deal with this."

So the question is, either you are going to have a lot more discussions between ministries, in which case you don't have streamlining, or you are going to have provincial ministries saying, "We don't have a direct role any more in this. It's Municipal Affairs," and from our perspective that's an abdication of provincial responsibility for the environment.

So looking at the big picture, what's going to happen when you say one window, your view is you're not going to get streamlining and you're not going to get better protection of the environment.

1110

Dealing with the issue of minor variance, presently the process provides for an appeal to the municipal board. As you know, you've got a very extensive code in Bill 20 to try to give municipalities some flexibility to deal with this and make their own decision as to whether things should go to the OMB.

The concern we have with that is trying to understand whether in fact municipalities are the best judge of what minor variance matters should be and whether they are the problem or the solution. Looking at the practice of this, it's our perspective that municipalities are very often part of the problem, not the solution, and the problem is that they are guided by other considerations than good planning. There may simply be politics, if I can use the word that way, rather than good planning.

What you have in the present system is an ultimate arbiter, the OMB, which says, "We are going to deal with politicians playing politicians instead of planners, and we are going to deal with minor variances and make sure that, at least, good planning is maintained on a consistent basis." The approach that's taken by Bill 20 is to really require municipalities to decide that they want to let the OMB have a role, rather than have the province say the OMB has this role. We think perhaps there are ways of circumscribing it, and we've suggested here that perhaps you limit minor variance appeals to one-day appeals so that they're expeditious. But the concern on the provincial level is that there be good planning, and our concern is that municipalities aren't always making decisions that represent good planning. Taking away the right of appeal and letting municipalities have the sole discretion on that is really going to make political what is now principally a planning matter.

Mr Buszynski: Our fourth concern relates to the reduction of time lines for approval and appeals that are put forward in Bill 20. We feel there is a high degree of risk in this approach. We also feel that for our constituents, it represents significant hardships. For instance, we've talked about our geography being a little less hospitable, the database being less well defined. The other area is that it's our understanding from the press that there will be massive cutbacks in the civil service, which will relate to fewer numbers of environmental stewards and others looking at these applications, which means the people who are there will be more overworked and they'll have less time to deal with them individually.

We've had many of our water bodies developed through multiple consents rather than plans of subdivision. This in itself can lead to planning and environmental problems because a comprehensive approach may not be taken to the review of this type of development. We are concerned that with the lack of MNR staff in areas like Manitoulin, Sudbury and Parry Sound district, the municipalities that are there are going to have to rely exclusively on a consultant's interpretation and guidance and that possibly the most detailed information and adherence to good environmental planning may not occur.

Our recommendations are that the present time lines be kept. Certainly we heard from others, when Bill 163 was being put forward, that these were fairly onerous. I've had experience in other jurisdictions—for instance, in the

States, in doing environmental impact assessment work dealing with the US Forest Service—where I've gone in as a proponent looking for comments back. They have time lines that are dictated, and talking to the staff, staff have said: "I'm sorry. If you expect us to get our input back to you within those time lines, forget it. It's not going to happen." That's a fact.

We're concerned that if you implement Bill 20 with even more restrictive time lines, people who are empowered to make decisions will throw their hands up and say: "It's not possible. Go to the OMB, and you'll just backlog the OMB."

So we're recommending that the approval time lines and the appeal processes are maintained. This will also enable us to ensure that our membership receives adequate notice. A letter can take five days to reach Toronto from Parry Sound.

Mr Northey: Moving on then, concern 5, I think it's fair to say that's dealing with the flexibility to determine a complete application, as I review the bill. I think there is that flexibility provided, so I think that concern is addressed in what I see in Bill 20.

Just to add to a point made on this public notice, I think the difference, as we've put in our recommendation, between 20 and 30 days is significant. If you're dependent on regional newspapers or things that are monthly to get your notice, a 20-day period means that the month is not quite going to work, and I'm not sure that that 10-day period is all that important from a time line perspective, but it may be very important from a public input perspective.

Mr Buszynski: Our sixth concern relates to public meetings. In our area—we have a summer residence in the Parry Sound area—we have developed a very cooperative approach with developers. We'll receive notice of a development, we'll evaluate it and we'll meet with the developers, and if we have some concerns, we'll try and iron out some ways to mitigate those concerns. This has worked effectively for our association in the past, and it prevents down the road conflicts. We feel that if you remove the requirement to hold public meetings, what may happen is that down the road you'll spend more time on appeals because people won't be properly consulted. In fact, inappropriate decisions may be made, because people who are resident in the area may be able to help someone out who's a proponent of a development, something that they've overlooked.

Mr Northey: Moving on then, the final one I will deal with is concern 7, and this is something I'm sure you've heard about, which is the infrastructure issue. Under Bill 163, one of the innovations was to make provision for a municipality or a board not to hear something, in other words, to put a stop to something where there was a view that the infrastructure was not adequate. By taking that away from what you've got here, and it exists, as you will know, under the official plan issue, under the zoning issue, under the subdivision issue, you're really perpetuating discussion and you're forcing things to go to a board hearing or past municipal council level, rather than cutting something off at the early stage of an application by allowing a municipality to say: "This is premature, in our view. We don't want to deal with the infrastructure

issue right now. We don't think this development application should come in at this time until we've got infrastructure dealt with."

To conclude, then, looking at the larger picture, the difficulty is, if you want to streamline the process and give municipalities empowerment, in fact, with what you are taking away here, you are doing the opposite. You're allowing hearings to go ahead where municipalities have to spend resources dealing with infrastructure matters, and in terms of the time lines, you're involving extending the time out when people can just keep pushing a process or an application along.

Mr Buszynski: In general conclusion, of the three precepts, those being streamlining, municipal empowerment and environmental protection, we feel you're achieving the municipal empowerment. We don't feel the planning process will be streamlined, for reasons suggested before. In fact, in the end, an agency such as Ministry of Natural Resources, if it's not involved up front and there are significant environmental impacts, may wind up laying charges in the end of the process, which may make it more costly for the developer and may take a lot longer time. Good planning means understanding everything up front in the process to save time in the end.

Environmental protection we feel won't be enhanced under this scenario. There will be a drastically reduced number of environmental stewards in the province as a result of the government cutbacks.

Then, taking not an appropriate amount of time to consider the development applications may lead to significant environmental damage, and it's fine for someone, the Ministry of Natural Resources, to go in at the end and lay a charge because environmental damage has occurred, and it has every right to do so under other acts. That doesn't alleviate the fact that the damage has occurred, and we may not be able to repair it.

What we would like you to do, if possible, is to consider our concerns and see if you can build them into the review of the bill.

1120

Ms Churley: I think you've outlined many of the problems that we've been discovering as we progress along with this bill. I think it should be called an environmental destruction bill at this point. It is going to cost us all a lot more down the road.

I'm going to come back quickly, as others might, to your comments about the "have regard for" as opposed to "be consistent with." We had a Mr Mark Stevenson from the Ontario Society for Environmental Management, chair of the policy committee, in here yesterday saying the opposite of what you're saying, that this is preferable to go back because it will speed the process up. I know you're a lawyer. I rest my case. There are different opinions on this, and it's going to keep coming up over and over again. Could you clarify again, as a lawyer who has dealt with these issues, why you think it's actually going to increase the time frame?

Mr Northey: Because, to put it very bluntly, "be consistent with" sets a standard and "have regard for" sets out a process. If you're trying to streamline something, you want a standard, not a process. So you've lost. Looking at the Planning Act, there is nothing that you could

regard as a hard and fast standard when all you're saying is, "Everyone, you must have regard for" something.

Ms Churley: So what you're saying is people could end up—and this is what we're hearing on this side of it—there'll be more OMB cases, there'll be more community groups, because there's no certainty.

Mr Northey: Absolutely.

Mr Ernie Hardeman (Oxford): I just wanted to go to number 7, your concerns with the right to refuse because of the prematurity. I just wanted to point out that many people have expressed the concern that by having it in there, the OMB could refuse the application for a hearing based on the prematurity of the application of non-servicing. The people who expressed a concern felt that they should have a right to the hearing to put forward the argument that someone had made a misjudgement on the prematurity of it, that that was something they should be allowed to have their day in court on. The OMB would still have the power to refuse the application, based on that the servicing was not available, but they would have a right to that hearing. Do you see that taking that right to the hearing away and not being able to put their case forward is taking away the democratic right the developer would have in this application?

Mr Northey: I think that's a fair comment. I think if you reflect back on what we were saying about the other appeals, which were the minor variance, you have spotted an inconsistency with what we're saying, because we're saying on most things there should be that ultimate right of appeal. I think, though, if I could put it this way, perhaps a fairer resolution is to have in the OMB some very abridged process for dealing with the issue of infrastructure.

The concern is that if you have the OMB appeal that can go ahead for any length of time, the infrastructure does not get resolved early on. I guess, to be fair to a developer on this, there should be a way where they can have an independent judgement on the prematurity point.

But I think equally there should be a way for a municipality to say: "Look, we don't want to get into the overall planning merits of everything going on with this application. We think there is a problem with the infrastructure point. Can we have a very abridged hearing on this point?" I do take the point you've made, but I think there needs to be some process where a municipality can put its foot down, so to speak, and say, "We don't want to get into the merits of this application holus-bolus; we want to have some ability to control our infrastructure process and when things should happen," not just lay it at the whim of developers.

Mr Gerretsen: I completely concur with your comment relating to concern number 6 that public hearings or meetings with respect to subdivision plans and severances are an absolute necessity, or else the public, particularly the public that may be immediately affected by living adjacent to it, will be totally left out in the cold without at least having their say about the matter.

But what I wanted to get your opinion on deals with this whole one-window approach notion. Let me tell you, I like the one-window approach notion from the point of view that everybody knows who the heck the lead organization is.

But your comment that the environment will not be better served as a result of this—and particularly when one reads the Globe and Mail this morning with respect to dump sites and the relaxation of environmental regulations, which obviously indicates to me where this government is heading that way—would you agree with me that what's really important is that there are some definite guidelines and procedures that all of us know about within the various ministries that are involved in the one-window approach, that they need to be set out so that everybody knows what the rules of the game are in dealing with it?

Mr Buszynski: I don't know, maybe Rod would like to supplement. I'd like to try to answer one thing, because I have had experience. I've worked in the provincial government. I'm now a private consultant. I've seen it from both sides. I've worked for developers; I've worked for government.

As I say, I was in Simcoe county yesterday at a government office, and they were busily preparing their input for Municipal Affairs, a map showing their concerns, their environmental concerns.

Municipal Affairs in the one-window approach would essentially do a checklist. For instance, if they see it's near a watercourse or a significant promontory, then they check off; there may be some heritage concerns. Now, if you have a map showing MNR concerns that says it's a deer yard or a wetland or whatever and they have a geographic area, you look at the development application. Perhaps you can say: "Yes, okay, it's in that area, so there's an area of concern. So we'll check it off, we'll circulate it to MNR."

The concern that this staff person addressed to me was that, number one, things aren't static in time. Things change, new information is brought in all the time. It's a question of trying to keep this updated.

What you're doing is you're asking somebody in the Ministry of Municipal Affairs to be the final arbiter. They're sitting in Toronto, perhaps never having lived in or experienced any of the areas outside of the greater Toronto area. They may not be really aware of what's a significant concern. And what you can give in the way of a map at a gross scale may not adequately provide enough information, and this one window, this one person in Municipal Affairs, has to provide that function. They may not be adequately prepared.

If you have the agencies like MNR, that pride themselves on being in the field, being out there and aware of what the impacts are and what the environment is, if they're not figured prominently in the process up front—and I don't think they can be under this system because it would become too onerous—then what you're left with is, when the damage occurs, then the ministry will go out under another act and charge the person.

I don't think that's the way we want to do it. I think we want to review it.

I would be the last person, having worked for the development industry, to say the existing system is great. It doesn't allow for a speedy resolution of the issues. I think one thing is a lot more emphasis has to be placed on mediation. That's something that really is lacking and something that I haven't really seen addressed strongly.

We're doing that on a local basis with our association and any development applications, and I can give you the names of developers we've worked with who are satisfied with the process.

I don't think that reducing the time lines—

The Chair: Excuse me. I'm going to have to cut you off, because we're already past 28 minutes. We appreciate your comments. Thank you very much for taking the time to make your presentation today.

COMMUNITY HOUSING PARTNERS PEEL

The Chair: Our next group up is the Community Housing Partners of Peel. Good morning, gentlemen.

Mr Bob Freeman: Okay. My name is Bob Freeman. I am employed by the Social Planning Council of Peel, which is a social research planning and coordination body in the region of Peel. I also chair Community Housing Partners Peel, which is a loose coalition of agencies providing housing and related services.

I'd like to indicate at the outset that I'm not a lawyer or a developer or urban planner. Part of what we do at the council is assess the possible implication of legislative or social policy changes on certain segments of the population. I'd simply like to provide a brief profile of the clients who are served under this program and to identify some possible implications if Bill 20 is passed, implications for the clients we serve. Then I'll turn things over to Aubrey Carrega and he will talk in more detail about the situation in Malton, which is a section of Mississauga. 1130

Typically, the people served by the program are those with low income; often they're on some form of social assistance. Many are new Canadians. Quite a number are ex-offenders, single-parent households and people with psychiatric problems. The major activities we conduct are housing help, that is, linking landlords with people looking for housing; mediation in landlord-tenant disputes; and counselling. Typically, clients require other forms of counselling: life skills, how to live within a budget and so on.

A consumer profile—and this we presented to the Ministry of Housing that funds this service; a survey we completed earlier this year. Of a total of 1,344 clients in the period of a year, from September 1994 to August 1995, it indicated that 23% of those were single, 44% were the head of a single-parent family—typically, women—and 18% were family households.

The primary source of household income for the same period: Of 1,165 households, 21% had no income, 24% received general welfare assistance, 14% received family benefits assistance and another 27% received family benefits assistance in addition to employment income—typically, the working poor.

The primary reason for people seeking help in the same period: 36% were identified as homeless, either living in a shelter, on the street or sharing a home; another 25% indicated that the rent in the current unit was too high. The greatest housing needs identified were among ex-offenders, single-parent families and newcomers to Canada. The groups hardest to house that we identified were ex-offenders and single-parent families,

typically because of discrimination on the part of private landlords. The groups most vulnerable to losing their housing among people served were people with mental health problems and young adults with low income.

One of the major features of the service we provide is a housing registry of private landlords, and there are approximately 370 of those, with a little over 500 units that we have access to. Of these, one third are rooming houses or shared housing, typically a basement apartment situation or an apartment in the house.

The average rent on the part of people looking for this kind of accommodation was in the area of 60% to 70% of income. The cut in the rates of social assistance which went into effect last October has had the effect of resulting in more people looking for cheaper accommodation, more families looking for cheaper accommodation and certainly more sharing of accommodation.

Just some background within this environment, some features of Peel's rental housing market. The vacancy rate as of last October, as identified by Canada Mortgage and Housing Corp, was 0.7%. Peel continues to experience high migration and population growth in the area of 17,000 to 20,000 people a year. With the moratorium on social housing that went into effect last year, there were only three social housing projects on stream which will bring in another approximately 250 units, which is certainly not anywhere near meeting the need out there.

There are approximately 20,000 household applicants for social housing. Most of those are Peel Living, which is the major landlord in Peel, and the Peel Regional Housing Authority, which is the local housing authority for the Ontario Housing Corp.

While no one has done an actual count, it is estimated that there are 18,000 apartments in houses in all of Peel region. At the same time, the rent supplement program—I am told that many of these units are being phased out of private buildings, so slowly, another avenue for people who typically can't afford to buy houses or live in market rents is being denied to many.

A study by Peel Living indicated that nearly half the residents living in non-profit housing are single parents. Also, 42% of Peel Living's residents were identified as coming previously from shared accommodation, typically with three or more people, and of those, more than three quarters were living in overcrowded conditions.

I'd like to conclude simply by saying that any legislative move in the environment being experienced in Peel region may have the following consequences: further discrimination, particularly against large families with three or more children, single parents—roughly 80% of those are women—people on social assistance and people with disabilities. Another implication will be growing homelessness, and, as we saw in the late 1980s, the intensification of practices such as key money.

At this point I'd like to turn it over to Aubrey Carrega to talk about the situation in Malton.

Mr Aubrey Carrega: Good morning. My name is Aubrey Carrega, and I'm the community housing worker of Malton Neighbourhood Services. I try to match landlords and tenants with safe, affordable housing. On a daily basis, I meet tenants who'd like to rent rooms in

people's homes or I speak with landlords who have dwellings they would like to rent.

One of the things I've noticed in Malton is that quite a lot of new Canadians are arriving there and they want to settle with their sponsors, who are usually the families who sponsored them. They would be in the basements of those homes. My concern is that if Bill 20 goes through, would that be severed completely? Would we still allow second families to be in a basement? That's my concern.

I'm a bit nervous, because this is new to me.

The other thing is that the new arrivals do not have jobs. It takes a while for them to get jobs and settle down and get the first and last month's rent. It takes a while. If we don't have somewhere for these new arrivals to stay, there's going to be a problem. Where will these people go? They will encounter severe hardship, and if they have to rent from private landlords they will not have the money. I notice that in Malton a regular one-bedroom will go for about \$650, whereas if there's a unit in somebody's home, it may go for \$250 to \$450. There's a big difference there.

The new Canadians help to stimulate the economy, in my opinion. Because if they are staying in somebody's basement, a relative's basement, they're not paying the regular market rent; they're saving money. From saving their money, they're allowed to get a down payment to get a new home, purchase a home that somebody else doesn't want. They want to move on to another unit. To me, that indirectly creates jobs, because you have to construct new homes for these people.

I was talking about the first and last month's rent. Private landlords, in my opinion, are much more flexible. We have situations in the Malton area where people have a poor credit rating, they do not have the first and last month's rent, they have too many children—all kinds of reasons they couldn't get into a regular apartment building. The private landlords with a unit in the basement are more flexible. They're willing to say: "Okay, let's work something out here. You don't have the last month's rent but you can move in and pay me in instalments. You have too many children? It's okay, come in." That helps the vulnerable people to find accommodation.

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We have situations of landlords who have already modified their basements. They have put in a separate entrance and have spent a lot of money to bring it to the standard required in Bill 120. If this bill is repealed, what happens to those landlords who invested that kind of money? I don't know.

I've had situations too where elderly people want a couple to move in with them just for companionship. What's happens there? That's a second family moving in. The elderly people may not want to rent it, they just want companionship for safety or whatever reason. That's a concern, and I've seen this a lot in Malton. I don't know what will happen there.

In conclusion, I strongly recommend that Bill 120 not be repealed. It should still stand, but we should have more inspectors going out to deal with residents, particularly in Malton, because I've seen some situations that maybe shouldn't be rented. I agree that we should still

have Bill 120 but more inspectors going out there to inspect the premises. Thank you.

Mr Smith: Thank you very much. It's been interesting to hear the various presentations from tenants' groups. There's certainly consistency in the type of information that's being presented. It's refreshing as well to see the type of detail you've presented with respect to the Peel demand.

The irony in this, if we want to call it that, is that it's sort of all or nothing. Obviously, the government has articulated its position with respect to having municipal autonomy and decision-making involved in this process of apartments as a second unit. Concerns have been raised by tenant groups about potential discrimination on the basis of a number of reasons.

The previous group, West Scarborough Community Legal Services, provided some alternatives. Are you aware of any models or alternatives that might find common ground to this issue? Have you had the opportunity to experience that, or are you aware of other situations where the concerns you're expressing can be married in some part with the government's view that this really is a municipal issue? Are you aware of any solutions, or can you provide any solutions to this dichotomy that exists?

Mr Freeman: Looking at the problem, it's such a multi-pronged problem. On one hand, there was quite a bit of social housing development going on in the 1980s and early 1990s; that's been identified as being too costly, too time-consuming. I really don't think there's any silver bullet out there. I think it takes a number of different approaches to start to adjust the problem, and my point is that people don't choose to live in basement apartments. They live in them because they have no other choice. With the situation, as I mentioned—the moratorium on social housing, the rent supplement being repealed—this only makes the situation worse, in addition to an already low vacancy rate in the rental housing market.

I know there have been a lot of discussions on repealing rent control. I don't have a firm opinion on that, but again I don't see a single or even a two-pronged solution. I just fear, if the current legislation is repealed and basement apartments and apartments in homes are made more difficult to access, for what people will end up doing.

Mr Hardeman: I just want to clarify the second presentation. There's some discussion based on what will happen to the existing landlords that have apartments in their houses and how they will pay the mortgage. I just want to point out that Bill 20 does not make the existing establishments illegal; in fact, it allows them all to remain legal, those that were in existence or those for which building permits were attained before the deadline date. So we are talking about the future as opposed to the present, existing apartments. I want to ask if you do not feel that the decision of where these apartment should or should not be allowed and where they should be serviced is not a more appropriate decision for the local municipality rather than Queen's Park?

Mr Freeman: This is an ongoing discussion. I know in Peel, especially in the discussion of where to put social housing developments, it's been a long standing debate

that the municipality should have that control and I'm not in principle opposed to that as long as the decisions that are made do not discriminate against a certain segment of the population who are most vulnerable to being homeless or to losing their apartments or not being able to enter the rental market.

Mr Hoy: Good morning. In the last six or so weeks, there's been a lot of discussion about special interest and special-interest groups. Generally, it contains a negative connotation or at least people perceive it to be that way. However, I have a different view of things. I think that people who are interested in an issue and want to help others, as you are here today, are special. So I congratulate you on your presentation.

I want to particularly say that your statistical analysis in the first presentation helps to understand the people who are affected by or potentially will be affected by Bill 20, and it gives a kind of face to who we are talking about. I appreciate that part of your presentation very much, and your effort and your desire to see that the best outcome of Bill 20 that affects these people is actually put in place, and I appreciate your presentation here very much.

Mr Hampton: We've heard from a number of groups and individuals about the issue of second apartments. I wonder if you can confirm something for me. It's my sense, from hearing all the groups, that whether or not these apartments are illegal, they are going to exist in the future and they are going to exist in greater number in the future, because there will be a growing demand for them and because many people who own homes will have their incomes decreased somewhat and will be looking for ways to help enhance their income. Would you agree with that?

Mr Freeman: Yes.

Mr Carrega: Yes, I do.

Mr Hampton: What's going to happen, though, is if we move back to a world where these apartments can be declared illegal is that we will see more of these apartments not meeting the fire code, the electrical code, the building code. In other words, the people who live at them will have their health and safety at risk.

The third sense I get is that these people will be denied the kinds of legal rights we would usually associate with citizenship. Those legal rights would be the right to complain about living conditions that are unsafe or in some cases unhealthy because if you do you'll get kicked out, is my sense. What it comes down to is, is the government interested in the values of all these people who I think will be placed at risk and will be denied, I think, what are commonly called the legal rights of citizenship? Is the government interested in those folks or is the government interested in catering to all sorts of—

Interjection.

Mr Hampton: No, Bill, I take this issue very seriously.

Mr Murdoch: Well, you should but you're—

Mr Hampton: Because in effect what your government's doing is it's ghettoizing a whole group of people.

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Mr Murdoch: What you're saying is that we should have the municipalities—

The Chair: Order, Mr Murdoch.

Mr Murdoch: Well, he's asking.

The Chair: Through the Chair, not directly.

Mr Hampton: I'd like to ask one further question. My sense is that municipalities for a long time had jurisdiction over this, yet the information we've received is that all kinds of illegal apartments that were not inspected, that fell below the health and safety guidelines, that fell below the electrical standards, that fell below the fire standards, were allowed and in fact existed across the province.

Mr Carrega: This is why I was saying that I agree with having Bill 120, but you must have more inspectors going out there and checking the units. I agree with that, and this is part of the thing I said before. Yes, I agree we must have inspectors out there.

Mr Hampton: Have municipalities in the past looked after this issue in a responsible way?

Mr Freeman: I'm not going to touch that one. In Mississauga, which tends to be, more than Brampton, a little more cognizant, or tries to enforce zoning bylaws that would maintain single-family houses, you may recall that in the last couple of years there have been some fairly high-profile cases of lives lost through fires and there have been inquests, and I believe there was one in Brampton. So as far as responsibility is concerned, I think it just indicates that there is a gap in the mechanism to ensure that apartments in houses are up to a level of safety, with regard to fire standards in particular.

The Chair: Thank you, gentlemen, for taking the time to make presentation this morning. We appreciate it.

CITY OF TORONTO

The Chair: Our final presentation this morning will be from the city of Toronto legal department.

Mr Dennis Perlin: Happy Valentine's Day.

Ms Churley: Oh, brought some candies for us?

Mr Perlin: No, just a wonderful submission that I hope you'll adopt. My name is Dennis Perlin. I'm the city solicitor for the city of Toronto and with me is John Paton, who is the assistant city solicitor.

We've submitted a few pieces of paper to you this morning. First of all, there's a formal letter to the committee attaching the city of Toronto brief with respect to Bill 20. Also, just in case anyone wants to follow the submission I was going to make this morning, it's also set out for you in a separate piece. The brief is this, and it has attached the council minutes and the submission this morning in terms of dealing with two particular points, which is the document that has the big print on top: "Bill 20."

If we have time, we'd be glad to go into a little bit more on the brief itself, but the two points we wish to deal with and we hope all members of the Legislature will see—especially in the first point, one that is truly neutral but truly a streamlined measure, one that can save significant dollars in terms of legal fees, survey fees, registration fees and just time in itself, and one we hope you would see as a streamlining measure that could be adopted.

It deals with—I know it will seem like a very mundane matter compared to some of the policy issues you're

dealing with—an important matter to many people who deal with development where site plan control is in effect, which is of course most, if not all, of the urban areas of the province, but particularly in the city.

The present system by which a municipality secures its approval and ensures that it gives notice to future owners and mortgagees, and then is binding on those future owners and mortgagees, is by way of the creation of a development agreement, its registration. What we are seeking as an alternative is one that would allow for an option in the bill that would allow simply notice to be done by way of recording the approval with the zoning bylaw status information system that municipalities have.

As many of you know, it's due diligence, common real estate practice, in fact required standard real estate practice, and indeed for those owners who do their own real estate work, for them to go to the municipality and seek a letter of compliance with respect to what are the zoning matters, are there outstanding work orders etc. What we have and what I know most municipalities have recorded with their zoning bylaw information is whether or not a site plan approval has been given and what conditions have been attached.

Because the present act provides for agreements and the registration of those as the way of giving notice to future owners and mortgagees, the question arises whether the approval in itself is notice to future owners. I am one of those municipal solicitors who believes that it is, but I have to tell you that there's a great deal of doubt, and I have some colleagues who think there's even greater doubt than others because of the fact that the Planning Act at the present time provides only one option with respect to notice and that is the creation and registration of an agreement.

Some of these agreements, as you'll see in the presentation—I'm trying to keep it short because I know you want to leave in time to have some lunch—can be anywhere from \$500 to \$2,000, and this can sometimes be on a very simple site plan matter for a small developer, because while we in the city, for example, create agreements, some smaller municipalities require the developers themselves to have it drafted. In any case, even if it's drafted by us, it has to be reviewed by other legal counsel.

There are legal fees for getting it executed, for getting it registered. There are survey fees in some cases to have it registered, or sometimes when there's a lane conveyance or a small piece of road allowance to be conveyed a survey has to be created. As I said, those fees are anywhere from a minimum of \$500 to \$5,000, whereas in most cases people can get the information in terms of a site plan approval and will get it when they send in their letter to the municipality when they're buying or when they're mortgaging for notice. They will get the notice as to what it is that the zoning bylaw provides and what it is that is the site plan approval and what are the conditions that are attached.

What we are trying to do here today is ask you to allow for an optional method of recording these approvals with the zoning bylaw status information register at a municipality. You have it, for example, in Bill 163 for

registering municipal properties; you have it here in Bill 20, depending on your debate on second unit registrations in section 59 of your bill. There are many registers, and of course zoning bylaw status is something that a municipality has to give, and it's not a letter that a person can avoid. You have to send your letter of compliance even if we've registered an agreement. People will still have to send their letter to find out what's the status, what isn't in compliance.

What we developed at the city and what we're here for is to seek in the bill clear authority for what we are now doing. I show you at the end of our presentation—there are two sheets at the end, the two last pieces of paper. You'll see there's a statement of approval/undertaking which is the second last document. What you'll see is signed by the planning official as the site plan approval and on the back you'll see the owner. You have an initial developer-owner who indicates that in this case she has accepted the approval and the conditions.

I purposely tried to show one on Coxwell that had three important conditions, but would at least from a municipal perspective—but frankly, to spend \$500 in order to have this registered is perhaps not necessary, especially when one can go get that information.

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As per the next document that you see, the last document, which does have the department of buildings request, what we call the form letter that goes out as a letter of compliance, you will see on it the undertakings for 339 Coxwell, what the status of the conditions is etc. It does achieve what an agreement registration would achieve. That's the first point we would ask you.

We do give you wording—you'll see it on page 4 of the letter or on page 4 of the brief, in both cases—in which we add to the registering of the agreements the recording of "the approval and conditions under the same system used to record the zoning status of properties by the municipality." It streamlines this process tremendously and it saves significant dollars.

The last issue I will mention with it is this. The reason, of course, that we have to put the agreement on title at the present time, if you're using a fail-safe method, is to secure it against future owners and mortgagees. In order to do that, you have to get what's called a postponement agreement—I'm sure many of you are familiar with it—from mortgagees that may be there at present.

We have had the unfortunate circumstances sometimes that in order to get those particular postponement agreements, not only are there fees, legal fees for preparation and execution and registration charged by the mortgage company; sometimes mortgagees have charged additional money in order to give the postponement agreement or have even raised an interest rate under a mortgage in order to give the postponement agreement.

That, I would say to you, is a rather unsavoury practice, and this type of practice we're now attempting to have put into the Planning Act will avoid that type of practice as well. I've seen it all too often during my 23 years in municipal law practice, so I commend that to you. I would hope that is one that you could adopt without a great deal of debate.

The second one may be a little bit harder for you: that city council would like the OMB access to remain for committee of adjustment variances. We have 1,000 or more applications to the committee of adjustment. We appreciate the city of Toronto is the largest area in terms of the province, in terms of committee of adjustment variances, and we have sometimes 200 or 800 appeals. Sometimes the municipality goes on 20-some appeals a year.

We do not believe that you should charge the municipality or the appellant for access to the OMB. You've given options; I appreciate you've set out options, but they should not include a requirement that in order to access the OMB appeal option, you have to pay a cost. We believe section 69 of the Planning Act, as it is, will allow us to pass that cost on to the appellant. That cost can be quite significant.

We're concerned that people of means perhaps can afford it. We're concerned that people will avoid going with minor variance applications and go with zoning bylaw applications because then they can get free accessibility to the Ontario Municipal Board. So it may not be encouraging what some may have hoped, that this will be a more efficient practice. It may turn out to be a less efficient practice as people look for ways to get to the OMB by doing a zoning bylaw application as opposed to a minor variance application.

More importantly, it shouldn't be downloaded on to the municipality. We have no control over the costs of the OMB. We don't make the appointments, we don't set out its administration, we don't determine its salaries; you do, and the OMB does itself under the regulations that you provide for them. We have no control over those costs. For most boards we create we can control the costs because we control the budgets. I think it's an unfair practice to put it on a municipality. We don't wish to take away from any of the options that you've put there. There are some municipalities that will be glad to do the minor variances—they have very few and do it themselves—others that will appoint committees with a council and it will be a final decision, and others that might like to do the review process.

But it's a lot to expect a municipal council, in terms of a large city, to be able to handle 800 review requests or perhaps even more, because you now still have to pay a \$125 filing fee for an appeal. So we would ask you to respectfully leave all of the options in the bill but please make sure access to the OMB an option that's available without cost to the municipality or the appellant, other than the usual filing fee that they have right now. That's our second point.

I commend, as I said, the whole brief to you including, you will see, city council's position on the issue you were discussing with the last application, that city council does not wish to see you repeal section 16 or section 35, those sections that allow for the as-of-right second residential unit in singles, semis and row houses. It has worked well in the city. There was a great hullabaloo that this would be the end of life in the R-1 sections of the city of Toronto; it has not turned out to be that case. I would commend that city council would ask you to please keep those provisions in the Planning Act.

Mr Hoy: Thank you very much for your presentation. The three areas that you covered are significant enough. I was particularly interested in your comments about the OMB and that whole discussion that you had there as to cost and downloading. I think they are significant concerns for all municipalities, whether it's the region of Toronto or elsewhere. I happen to be from a rural riding quite a distance from here and I know that costs, in light of a previous bill that was passed, are something they'll be very concerned with in regard to OMB etc. I thank you for highlighting those. Our party will discuss those.

Ms Churley: Thank you for your presentation. Happy Valentine's Day to you too.

A number of questions came out of your presentation, particularly the first one, which was quite technical, and I think I agree with you. I don't see any reason why the government should not agree with that. Hopefully, we can make such an amendment.

I wanted to ask you about municipal councils being given the power to consider minor variance applications or review decisions from the committee of adjustment. In other words, which would be the body that hears the final appeal? We've heard from a number of people that that's not a good idea for obvious reasons: that councils are very political and it is sometimes hard to be objective. I wonder if you can comment on that. Do you think it's a good idea, a bad idea?

Mr Perlin: In terms of the position of the city with respect to these OMB appeals, this should continue, and that is the preferred practice. Some of the most important planning matters that people ever face in their lives are these small minor variances; they sometimes cause the greatest problem in our city in terms of neighbourhood disputes and community disputes, and "the day in court" that the OMB provides to them is a very important matter.

It's also an important issue, sometimes, for owners-developers who feel they've tried very hard, with neighbouring owners and neighbouring groups, to reach agreement with them and they can't, and feel that they too should have access to the OMB, and they're not all big. Sometimes they're just home owners, they have very limited means, they are trying to get a porch or an addition on and feel that their next-door neighbour or others are being quite unfair and would prefer to have the OMB as the body that does hear that particular dispute and settles it.

In the city of Toronto it's a system that works quite well and indeed provides the greatest deal of problems, in most cases, for matters of dispute. People really do look to the OMB as that neutral body they can go to that's not appointed by city council—so that's one strength, if you like, to it—whereas the committee of adjustment is. Sometimes there's a concern that if you're going for a review, you're going to the same council that appointed the same committee of adjustment, so what type of neutral review are you going to get?

As many of you may know—some of you have worked in municipalities—it's the one time or sometimes the only time in people's lives where they will have the experience of fighting in the neighbourhood for something they

really believe in and that they think is going to hurt their community, or, vice versa, something that somebody wishes to do with their property, and it's the most important thing they will ever do. They won't be building Raptor stadiums and SkyDomes and convention centres or going for those major rezonings. Minor variance is their day, and they want their day in court.

Mr Murdoch: Thank you for your presentation. On the first problem you brought up I would like to say to Mr Hardeman that maybe he will take that back and have our legal people look at it and see what they think. You do have some good points there, and we should be able to work something around that.

The second one, and I may be getting it wrong—you're saying we should have an option in there that something like the city of Toronto could choose the option that minor variances do go to the OMB. I come from rural Ontario, and a lot of times I can see where minor variances shouldn't go there. I think councils have a responsibility to make some decisions, and a lot of the time what happens is that minor variances can be held up for a long time with really frivolous objections. I think that's why councils get elected sometimes, to make decisions. Am I hearing that right, that there should be an option in there that, "save if the city of Toronto wants that option," that they should be able to make that the way they would handle their problems?

Mr Perlin: Right now, you have that option in the bill. You have three options. The one that you're speaking to, Mr Murdoch, and that option could be chosen by that council, could stay either final by the council or by a committee of review or a committee that has a council member on it, and that's fine for those municipalities. In the city we're looking at about 150 to 200 that are appealed. It's very difficult for city council to try and deal with those requests, so in effect, in the city the option of going to the OMB is perhaps the most practical option.

Our concern is—not that you take away any of the other options that other municipalities might wish to use—only that the cost should not be charged back to the city of Toronto. That's what this bill provides, that the Ontario Municipal Board may charge the cost of those appeals back, and our concern is that it's unfair to do that to the municipality.

Mr Murdoch: If they choose that one option, yes.

Mr Perlin: If they choose that option, and some people will go with rezonings in order to ensure they get that option, as opposed to minor variances, and that will go without cost to the OMB.

Mr Murdoch: You like Bill 120—you just threw in at the end there that things are okay with basement apartments and that and you like it the way it is now.

Mr Perlin: The city council likes it the way it is now.

Mr Murdoch: Okay, that's just to get it on the record.

The Chair: Thank you, gentlemen, for taking the time to make your presentation this morning.

That being the last agenda item on this morning's calendar, this committee stands in recess until 1 o'clock, back here in room 2.

The committee recessed from 1213 to 1307.

CHILDREN'S AID SOCIETY OF METROPOLITAN TORONTO

The Chair: First up this afternoon is the Children's Aid Society of Metropolitan Toronto. Good afternoon. We have 25 minutes for you to use as you see fit, divided between the presentation and question-and-answer time.

Mr Malcolm Shookner: Thank you. Our intention is to take about 15 minutes of the 25 to present our brief and then have time for questions. My name is Malcolm Shookner. I am a member of the board of directors of the Children's Aid Society of Metropolitan Toronto. I have with me here today Ann Fitzpatrick, who is a community worker for the agency, and Michael Johnson, who is a volunteer on our housing committee.

This submission will outline the mandate and client profile of the Children's Aid Society of Metropolitan Toronto, the scope and recommendations in our submission, and the negative impact that we believe Bill 20 will have on the wellbeing of children, youth and families with whom we work.

The Children's Aid Society of Metropolitan Toronto is the largest board-operated child welfare organization in North America. Annually, our organization works with over 8,000 families and 17,500 children and youth. The Child and Family Services Act mandates our organization to protect children up to age 16 who are at risk for abuse and neglect. Where it is required, we also provide high-quality substitute care and adoption for children. In addition, our services include prevention and support programs to keep children with their families whenever possible.

The children's aid provides social services to some of the most economically and socially vulnerable children, youth and families in Ontario. Fifty-one per cent of our clients are lone-parent-led families; 56% of our clients are in receipt of social assistance; 35% of the children, youth and families we serve are members of racial minorities; 70% of our clients rely on private sector rental housing, 30% of them on subsidized housing.

Since we are one of the few mandated services which visit families in their homes, we have a unique perspective on the impact of accommodation on children and families. Accessing safe, adequate and affordable housing in the public and private housing sector is very difficult for many of our families, including youth in our care who are moving to independent living. Large reductions in social assistance rates for families, extremely low vacancy rates for rental housing in Metro Toronto and long waiting lists for government-subsidized housing have combined to make it very difficult for our clientele to find and keep suitable housing that they can afford. We expect this trend to continue.

The children's aid and other child welfare experts recognize the relationship between children's wellbeing and accessible, affordable and safe housing, and it was for that reason that our board of directors developed a housing policy and adopted it in 1981: "Everyone has a right to adequate, affordable housing, and furthermore it is the role of all levels of government to set and enforce policies in such a way to ensure that this occurs."

Research carried out by the University of Toronto and the children's aid found that housing problems were a factor in 18% of the cases where children were taken into our temporary care. Therefore, housing was a factor in up to 250 child admissions to care in a one-year period. The average cost for a child in care is \$1,560 a month. In contrast, prevention and support services to children at home with their parents cost about \$124 a month. The emotional and social costs are much harder to measure. We do not think that governments at any level can afford to ignore the basic housing needs and rights of children, youth and their families.

The scope of this submission relates specifically to the sections of Bill 20 that will regulate houses with second units and directly impact on the safety and housing needs of children and youth. In this brief, the terms "accessory apartments," "second units" and "apartments in houses" will be used interchangeably. On all occasions, we're referring to a second, self-contained apartment unit as defined under the Planning Act and the former Residents' Rights Act.

The children's aid worked with hundreds of organizations and individuals across the province leading up to the proclamation of the Residents' Rights Act. We appeared before a standing committee to support the bill in 1994. It is with great disappointment that less than two years later we're facing the repeal of this law.

The Residents' Rights Act was a step forward towards the provision of safer housing for children and families while legalizing and encouraging a small-scale addition to affordable rental housing supply. This legislation created a new level of consistency in every jurisdiction regarding fire safety and planning standards, benefiting homeowners and the children, youth and families living in these apartments.

To repeal this legislation by proclaiming Bill 20 will only serve to hide the development of new accessory units, once again placing children, youth and families at risk. The number of child deaths in unregulated, illegal apartments in houses prior to the passage of the Residents' Rights Act underscores our concern.

We recommend that the section of Bill 20 pertaining to apartments in houses be deleted from this legislation, and we further recommend that the provisions established in the Residents' Rights Act remain in force. This is in the interests of children and families who rely on housing that is accessible, affordable, safe and includes security of tenure.

Now I'd like to ask Ann Fitzpatrick to speak.

Ms Ann Fitzpatrick: I'd like to talk about the impact of Bill 20 on child welfare in terms of access to housing, affordable housing, safe housing and landlord and tenant rights.

Accessing housing is a major problem for many families involved with the children's aid society, and we support every government initiative that expands the number of rental housing options. Approximately 12% of the families we work with lived in basement apartments or apartments in houses in November 1995.

This form of housing provides additional choice for families regarding the housing they can access. Their choices are already seriously limited by low vacancy rates

for rental housing—which are at 0.6% in Metro—tenant selection policies that screen out tenants on the basis of their income, long social housing waiting lists and high rental costs.

Apartments in houses are not just a source of housing for our clients; they make up a substantial percentage of the rental housing in the community. The recent Lampert report commissioned by this government states that accessory units "contribute 9% of the 'non-conventional' private housing stock in Ontario."

Since the passage of the Residents' Rights Act, the Ministry of Municipal Affairs has been trying to tabulate the number of new units created. Although not all municipalities gave their stats, as of September 1995, 433 new units have been created, 119 units have been upgraded and 280 inspections of existing units have been completed, 53% of which required smoke alarms.

Apartments in houses are a viable form of housing that expand the choices for low-income parents and children.

The children's aid supports laws and programs that will result in the development of affordable housing options. Many families involved with children's aid pay a large percentage of their income for housing. Since the social assistance rates were cut in November 1995 by 21.6%, the numbers of evictions have reportedly gone up in Metro, there are more households on social assistance unable to pay their rent and the shelters in Metro Toronto have noted a 52% increase in homeless families in the past year. There are over 600 children and another 600 adults who are living in cramped motel rooms on Kingston Road that represent the shelter overflow in Metro Toronto. The CAS has had children come into our care, which is very expensive, due to parents' inability to feed and house their children. More than ever, the province needs to show leadership in supporting solutions to increase affordable apartments to meet this need.

In terms of our experience, apartments in houses are a more affordable form of housing and this has been supported by research done by the Ministry of Municipal Affairs in their report *Apartments in Houses*, October 1992. Furthermore, the Lampert report once again speaks to the affordability of apartments in houses and they quote:

"Not only do they augment the total supply of rental housing, but they add variety, and particularly with accessory apartments, they comprise a low-rent, low-cost addition to the rental stock that would not be possible without subsidized new construction."

Planning experts, housing experts and child welfare experts have recognized that this is an important source of affordable housing and we think it's necessary for the government to catch up.

We think Bill 20 is going to create obstacles to the development of affordable housing apartments. It removes the overriding as-of-right provision for homeowners who want to add a unit and it returns the powers to municipalities to invoke historically restrictive zoning and planning standards. Mandatory registration systems will add even more red tape and bureaucracy that homeowners will try to avoid.

If history repeats itself, we predict that Bill 20 will reduce the number of legal apartments that are installed,

but it will not reduce the number that are created underneath the view of the municipalities. Before the Residents' Rights Act was passed, we need to remind ourselves that 100,000 homeowners in Ontario defied local zoning. They created an underground market of housing units. They were exercising what they saw were their property rights and in some cases it was an economic necessity to prevent mortgage foreclosure. The Residents' Rights Act finally legitimized and regulated this form of affordable housing.

We think homeowners who install apartments in houses are part of the housing solution in Ontario without cost to the government. Private rental starts are at the lowest level in 50 years and there's no solution on the immediate horizon. It's unclear why a public policy that promotes privatization would implement a bill that effectively attacks homeowners' options to make their housing more affordable while meeting a community need. Bill 20, with the added zoning restrictions, will create needless obstacles to inhibit the development of affordable housing.

CAS is concerned that Bill 20 will not be as effective as the Residents' Rights Act in ensuring most apartments in houses are safe and regulated. Our workers make home visits regularly and it was because of some of their concerns about apartments in houses that we advocated for Bill 120 to be passed. We saw Bill 120 and the Residents' Rights Act as the most significant advance in terms of the safety of apartments in houses. The law did provide enforcement tools to a municipality that did not exist before, such as an amended fire code and building code. In contrast, Bill 20 will result in confusion in standards that various apartments must meet and will create greater problems with safety.

From our perspective, there are going to be three tiers of apartments in houses in Ontario after Bill 20 passes: grandfathered units that have one set of standards, a second set of standards for municipalities that allow zoning for new units, and a third tier which is going to be the one where homeowners continue to defy zoning. This is going to be a nightmare in terms of enforcement and in terms of tenants even knowing what kind of housing they're living in.

With few exceptions, prior to the Residents' Rights Act accessory apartments were not permitted in most cities and in most areas across Ontario, which left tenants and homeowners with no property standards, enforcements and supports. Tenants could not, if they were living in an illegally zoned apartment, phone their local city to enforce any standards because they would be at risk of having that unit shut down. People want safe housing; they don't want to lose their housing. Under Bill 20 tenants have little to look forward to. Once again, in unregulated housing they're going to be in a safety limbo.

One of the tools municipalities have as the result of the Residents' Rights Act is an amended fire code that makes specific standards for basement apartments and apartments in houses. Section 9.8 of the fire code came into effect in July 1994, and within 30 days homeowners had to install smoke detectors. Since the passage of Bill 120, there has been one fire fatality in Ontario, in contrast to

seven fire deaths between January 1994 and July 1994 involving several children.

In July 1996 further regulations will come into effect regarding exits and fire containment. We believe this new fire code regulation was a big step forward in promoting safety for children and families. Homeowners can face big fines and there are liability issues if they don't comply, and tenants don't have to be afraid of losing their housing if they phone to complain. With Bill 20, we're not certain how homeowners are going to see whether they need to comply with this or not.

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Regarding enforcement powers, Bill 20 proposes to give municipalities added powers to have every home registered. In our opinion, this is an excessive regulation and will do more harm than good. Apartments in houses represent 9% of the non-conventional housing market and as such they should be considered part of the regular housing stock and should not require a parallel system of enforcement. Apartments in houses and their tenants should be treated in an equal fashion with other tenants and have the same access to property standard staff and fire staff on a complaint basis.

A separate costly registration system for over 100,000 units is going to be another disincentive for homeowners to come forward and will result in an underground market of these units. With municipal grants reduced on an average of 20% or more, it's not economically feasible to set up this kind of system unless it's financed by homeowners, and fees are expensive. Wouldn't you rather see homeowners spend their money on smoke alarms and safety upgrades rather than registration fees?

Prior to the passage of Bill 20, if tenants were living in an apartment in a house that was illegal due to zoning, legal clinics and tenants faced confusion and inconsistency in landlord and tenant court. Tenants were in a legal limbo, they were like second-class citizens, and in all cases they did not have their rights upheld regarding evictions, privacy and other aspects of the Landlord and Tenant Act. The Residents' Rights Act finally ensured that tenants in accessory units have the same rights as other tenants in Ontario. Bill 20 will leave a growing number of tenant households vulnerable and uncertain in terms of their landlord and tenant rights.

Mr Shookner: A couple of concluding remarks: The Children's Aid Society of Metropolitan Toronto has had years of direct experience working in the homes of families, children and youth who live in apartments in houses. We urge this committee to delete the section of Bill 20 pertaining to apartments in houses and recommend that the provisions established in the Residents' Rights Act remain in force.

By enacting that law, the former government showed leadership by effectively balancing the safety and rights of tenants, homeowners, the need for affordable housing and good planning with long-standing municipal resistance to accessory units. This law was in the best interests of children and families who rely on housing that is accessible, affordable, safe and includes security of tenure.

Apartments in houses are a reality in Ontario. Families, children, youth, students, seniors, the disabled and

thousands of social assistance recipients rely on this form of housing. Again, the Lampert report estimates it's about 9% of the non-conventional housing stock.

Many centres in Ontario, including Metro Toronto, are facing a crisis in rental housing with vacancy rates nearing zero. Homelessness is on the rise, and overcrowding. As Ann mentioned earlier, we've already filled up the motels on Kingston Road with homeless families that the shelters can't take, and this is before the changes that we anticipate coming from this new legislation. We may have to start using the hotels downtown pretty soon to fill them up with homeless people because there won't be any place else to put them.

We believe that the province of Ontario must take responsibility by investing in creative and sustainable housing solutions. The Residents' Rights Act was a positive solution, long overdue. It would be a serious mistake to repeal this law and would jeopardize the wellbeing of thousands of children and families. Thank you for your attention.

Mr Hampton: One of the arguments that the government is making is that this whole issue should be left in the hands of municipal authorities, that municipal authorities are in the best position to deal with this issue. What's your sense of how responsibly municipal governments have dealt with this issue in the past? Do you have any views on that?

Ms Fitzpatrick: Sure. I would be very concerned about putting the powers back into the hands of municipalities. I have had direct experience in trying to support, make deputations to city councils, making these same arguments. Since 1989, when the Liberal government introduced the housing policy statement, very few municipalities on a voluntary basis came forward with bylaws that would permit accessory apartments in certain areas. There has been a vehement opposition to apartments in houses by municipalities, and I see no reason why that's going to change.

The other thing I've seen at first hand, being on the board of a shelter that was developing in one city and being familiar with the non-profit developments across municipalities, is that the not-in-my-backyard syndrome is very pervasive when it comes to trying to get planning approvals for housing developments that relate to low-income people. Our history has been that zoning and planning decisions are being made on the basis of who is going to live in a development, as in an accessory apartment or a social housing building, versus legitimate planning concerns. In answer to your question, we aren't confident that municipalities will act progressively or responsibly on this issue.

Mr Hampton: We've had a number of presentations on this part of the bill. The sense we get is that the market for these types of apartments is going to grow astronomically. Whether they are legal or illegal, the market is going to grow astronomically because there will be so many people in need of less expensive housing in apartments and there will be a number of homeowners who, in effect, need to supplement their income.

The sense I get is that the choice is not between having these apartments and not having them. We will have them. The choice is between ensuring that they are

safe, that they meet fire code, that they meet electrical code, that they're healthy places to live, on the one hand, which I think would come with regulation and as of right for property owners, and on the other hand, ignoring their existence and putting up with all kinds of unsafe conditions in terms of fire inspection, electrical inspection and other things. What's your sense?

Ms Fitzpatrick: I agree with most of what you said except that I don't necessarily think, based on history, we're going to see an explosion or a flood of new units. I think there is a market for them, but homeowners have to be in a special situation to want to add a secondary unit to their home. I think if you look at the statistics that the ministry has collected over the last 18 months when the Residents' Rights Act has been in place—we haven't heard from every municipality, but you're not seeing a flood. There still will be some homeowners who may put in units without safety standards, but the idea is they're in the regulatory framework and they can be brought forward.

But I think the issue is, all the other statements that you said I think are true, that they're going to keep coming on stream in a regulatory framework or not, and providing the as-of-right zoning provides one less burden for homeowners and I believe provides more of an incentive for homeowners to phone the city and say, "How do I do this right?" because they're not in fear that they're going to be told, "No, you can't do it."

Mr Murdoch: Do you actually believe in municipal government?

Mr Shookner: Yes.

Mr Murdoch: Okay, that's one good thing. What about local autonomy then?

Mr Shookner: Where local autonomy results in people being put at a severe disadvantage or their health and safety being at risk, I think there are limits to local autonomy, which is where a provincial role comes in.

Mr Murdoch: So you think the provincial should do that. Okay. I just want to know where you're coming from.

It's really strange to sit here and listen to people advocate, basically, that if we don't do something, people will break the law. I mean, they're breaking the law when they put apartments in houses when it's against the zoning. That's against the law. We seem to sit here, or some people do, and say: "That's fine. That's going to happen willy-nilly. It doesn't matter. We can break the law in this country and it doesn't really make any difference."

I find it really disturbing that our society has come to that and that you could sit there and say, if we pass Bill 20, people are still going to break the law. This is very disturbing for society, and if that's the way you feel society has gone, then I think we're in trouble, because that's what you're saying.

Ms Fitzpatrick: On an issue like this, when a homeowner puts an apartment in against zoning, I think in a sense they're voting, they're trying to tell elected officials what makes common sense in their lives and in communities. The fact of the matter is that they're not breaking into stores, they're not imposing on someone else. What they're trying to do is create some housing within their

own private property and they're providing housing for another tenant.

We're not advocating for people to break the law. We're asking for municipalities to catch up with the economic realities of our time. Both homeowners and tenants have a lot of economic needs that our governments are not addressing and maybe cannot be expected to address. We're saying give homeowners the autonomy.

Mr Murdoch: It's strange, though, we vote by breaking the law. That's why we have elections. They get a chance to vote for these people in their elections.

Mr Hampton: Bill, who's the Premier who said that tax evasion is only human nature?

Mr Murdoch: Howard, if you'd like to debate with me, why don't you ask the Chair if maybe we can have a debate here?

Mr Hampton: Bill, I'm trying to help you out. Who's the Premier who said that tax evasion is only human nature?

Mr Murdoch: I don't know who the Premier is. That's your job, to find that out, not my job. I'm saying that here we're advocating to vote by breaking the law.

Mr Shookner: Excuse me. I think you have misunderstood what we're trying to say. We did not say what you're suggesting we said.

Mr Murdoch: The lady said we vote by putting that in there—

Mr Shookner: Your interpretation of that is wrong. I think the record will show that.

Mr Murdoch: —and that's not the way to vote. We have elections to vote.

Mr Shookner: We also have committees and legislatures to vote.

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Mr Hoy: Thank you for being here today. I assume you're good, outstanding citizens who are not here with any intention of condoning the breaking of laws, but I do understand that you want to amend or change an impending law. Your presentation is probably testing the capacities of the present provincial government to make good law. I appreciate your being here. The question of whether we require municipal levels of government or provincial government is not really the question here. We're talking about Bill 20 and a change to some law.

You mentioned the municipal grants that have been cut, and you mention 20%. I assume you chose that figure for some reason, maybe a generalization. I can tell you, just during the noon-hour break I was looking at a municipality's cut of 31%. The government would say: "If municipalities must do some inspection of these apartments, they can charge fees, and there's no problem here. You can be cut 32%, 20%, 18%, as a municipality, and you have the ability to charge fees." Fine. What about the ability of those to pay the fees? Do you have any comment about that?

Mr Shookner: As a corollary to the statement that there's only one taxpayer, there's only one taxpayer-feepayer, in the sense that whatever requirements of the provincial or municipal governments to raise money to conduct what they think is important is going to come out of the pockets of all of us in varying degrees. To shift the focus to municipal governments and put them in the

position that they have to charge fees for services like this, if they're going to try to do the right thing, they're going to take the heat as well for the adverse affects of this kind of legislation.

I think an underlying question here is, what are the appropriate roles of the provincial and municipal governments in trying to create an adequate environment within which—what we care about here today is environments within which children and families and youth can live in a reasonably healthy and safe and secure way. Governments have a role to play in this. The market will not do the job. We know from experience that that's the case. That's a long answer to your question.

The Chair: Thank you, all, for taking the time to make your presentation before us. We appreciate your comments.

Ms Churley: Mr Chair, before we go to our next presentation, I'd like to make a motion. I move that this committee formally request the Minister of Environment and Energy to appear before this committee during the first day of clause-by-clause deliberations to answer questions relating to the effect of the Planning Act amendments, Bill 20, on the environment and the people of the province of Ontario.

I make this motion because yesterday when I made a motion to request the minister to appear before this committee during public hearings, the government members denied that request. One of the reasons given by Dr Galt was that it was not necessary for the minister to be here because he is the parliamentary assistant to the minister and could act on his behalf. Well, he isn't even here today.

I will be introducing amendments to Bill 20, because I see this as a very destructive bill when it comes to the environment. I believe it will take us back decades in terms of environmental protection. We have not heard from the Minister of Environment and Energy at all regarding this bill, and she has to be accountable to the people of this province regarding the areas of the bill that relate to the environment, of which there are many, and she must be available to provide comments and information on such a very important bill that seems about to be passed by this government.

Mr John R. Baird (Nepean): Mr Chairman, I would respectfully say that we had the debate on this yesterday. It's relatively the same motion. Could we just call the question and vote on it?

The Chair: That's a function of when debate ceases, Mr Baird. Any further debate?

Ms Churley: I want to make it very clear that this is a different motion from yesterday. We're about to hear from CELA. I've had a chance to look through this document. This is a very well-respected organization, consisting of environmental lawyers and policy people. They have, as we will hear in a few minutes, very serious concerns about the impacts this Planning Act, if it's passed as it's before us now, will have on the environment. I think it's absolutely crucial, and I would expect that the backbenchers of this government will want to know, before just willy-nilly going along with passing this bill the way it is, the implications it's going to have on the environment and on the health of the people in

their own communities. I can't believe they don't want to hear from the minister so they themselves will have more knowledge when we're going through clause-by-clause, with amendments coming forward, about the implications of the bill. It's unbelievable.

Mr Hardeman: I would first ask the Chair to rule on whether the motion is in fact in order. I deem it to be the same motion that was dealt with at 6 last night. After the ruling of the Chair, I would like to debate the motion, if the Chair rules that it is in order.

The Chair: It is in order, Mr Hardeman. It's substantively different inasmuch as the request is for a specific day, namely, the first day of clause-by-clause.

Mr Murdoch: The parliamentary assistant, you mentioned, couldn't be here today, but he was here yesterday, I understand.

Mr Baird: He told you he wouldn't be here today.

Ms Churley: I don't know about that, but I do know we have a very important presentation, for instance, coming up now, and I am disappointed. He gave the reason it wasn't necessary to have the Minister of Environment and Energy here: because he was here to represent the minister.

Mr Baird: He said yesterday he wouldn't be here.

Ms Churley: None the less, I think my motion makes it very clear why I'm asking that at some point—and I'm being specific: during clause-by-clause, when we are putting forward amendments—we all know what's going on here. I would hope you'd want that information yourself.

Mr Murdoch: Certainly, and I'll do my best to know

what's going on myself and talk to different people we hear in submissions, but I understand Mr Galt will be here, hopefully, when we go through clause-by-clause. As you know, parliamentary assistants are somewhat as bright as the minister. Somebody may object or may disagree with that, but you know that. Your motion maybe is not out of order, in terms of putting the motion in, but I think it shouldn't be passed at this time. We should make sure we have capable people here to answer any questions you'd like answered, but not necessarily that it has to be the minister.

When you tie it down like that, it's unfortunate we can't vote for something like that or I can't support it. But I have no problem having people here who are expert and things like that, and we do have different ones within the ministry. That's why I think it's a little premature to say that at this point. We still have two more weeks of meetings and all kinds more presentations come to us, and I think we should wait until then and look at it then.

Mr Hoy: Having been here yesterday when the parliamentary assistant was speaking about the possibility of the minister coming before the committee, his suggestion was that his presence was enough to satisfy.

Mr Baird: He said yesterday he wouldn't be here.

Mr Hoy: That isn't the case, though.

Mr Baird: Check the record. He said he would not be here.

Mr Hoy: The request was made for clause-by-clause. Yes, we do have other weeks of hearings to come, but certainly the minister would be able to respond to those at that time, and I will be supporting the motion.

Ms Churley: I found Mr Murdoch's suggestion very interesting. If this motion is lost, I'd be happy to take him up on the offer that the parliamentary assistant will be able to answer questions on behalf of the Minister of Environment and Energy. In terms of process I'd have to ask you, Chair, but if this motion fails, which it appears it's going to, I'd like to put that forward as a motion. But I assume I have to wait until we deal with this one.

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Mr Hardeman: I will not be supporting the resolution. Contrary to the Chair's ruling, I believe that the resolution yesterday dealt with the appearance of the Minister of Environment and Energy at these committee hearings. I do not believe that just changing the time and defining the time that they would or would not appear changes the resolution.

Having said that, I want to point out that in terms of the minister being here to speak as it relates to the delegations that will be coming forward and the fact that the parliamentary assistant is unavailable to be here today to hear the presentation, I suggest that if the minister came to the clause-by-clause, she would not have had the opportunity to hear any of the delegations. I suggest that the ability of the parliamentary assistant to address the issues and the clause-by-clause will still be as well served as it was previously.

I would also point out that the Canadian Environmental Law Association, which the presenters will be members of, has had meetings with the minister where a number of people were in attendance to discuss the issues, and in fact they have been requested to meet with the minister to discuss the policy statements but at this point have not yet agreed to do that. I think we should carry on hearing the delegations as they come forward to speak to the bill. I will not be voting for the resolution.

Mr Murdoch: I think when we go into clause-by-clause we should have a free-wheeling discussion and everybody should be able to put their points on, and I'm sure we'll have as many people with expertise as we can here, different parliamentary assistants. Municipal Affairs is here today, and I'm sure Doug will be here. He can't be here all the time. I know he left. You knew yesterday he wouldn't be here. I haven't been here for two days, unfortunately, but we can't always be here.

Ms Churley: That's okay. We forgive you.

Mr Murdoch: Thanks, Marilyn. I'm always happy when Marilyn will forgive me.

I think we should get on. I think we'll have that free-wheeling discussion. I hope to be here for clause-by-clause too, and then we can get at some of these issues that the opposition so dearly wants to.

The Chair: Seeing no further debate, I'll put the question. All those in favour of the motion?

Ms Churley: A recorded vote, please.

Ayes

Churley, Hoy.

Nays

Baird, Fisher, Hardeman, Murdoch, Ouellette, Skarica, Smith.

The Chair: By a vote of 7 to 2, the motion fails.

Ms Churley: Okay, I have another motion. I move that this committee formally requests the parliamentary assistant to the Minister of Environment and Energy to make a presentation before this committee during the first day of clause-by-clause deliberations and answer questions relating to the effect of the Planning Act amendments, Bill 20, on the environment and the people of the province of Ontario.

Mr Murdoch: I still think it's premature. I don't think we need to do this at this time. I think you're way ahead of yourself. I don't like to see anybody play games, and I'm sure you're not. As I said on the other one, I think you're premature in this motion. I think we've got to wait and see what we get. Who knows? Maybe by the end of this you'll be so full of wisdom that you won't need any wisdom from us. I think we should just let it go and defeat your motion and let's get on with business and later on bring up some of these ideas you have.

Ms Churley: Mr Chair, with all due respect, we were not able to get any credible answers from the Minister of Municipal Affairs and Housing on the first day about the impact on the environment. With all due respect to the parliamentary assistant to the minister, he's been full of very flowery language about what a wonderful job this government is doing on the environment but doesn't seem to understand what's within this bill. I would like to make sure that he is aware, in terms of his duties as parliamentary assistant to be fully apprised of the implications to the environment, and that we have somebody involved in that ministry, one of the politicians involved in that ministry—I think we deserve that as a committee—come in here willing to give a presentation and answer questions, for everyone's comfort. I think that is extremely important.

It is not premature. Perhaps it might even prevent other motions tomorrow and the day after and the day after, in terms of me trying to get this government to agree to have some presentation and questions answered at some time in this process. I would urge the members to agree to this motion today. It makes sense. I don't see why anybody should have any problems with it.

Mrs Fisher: Mr Chair, I do understand Ms Churley's concerns. We are all sitting here. We are all in receipt of the delegations and presentations being made. We will have an opportunity, through clause-by-clause, to do our debating as necessary. We'll also have another opportunity in the House to do the same, and I do happen to agree with Mr Murdoch's statement that there'll be an opportunity, a time and a place to make that happen. We know we have credible people in our party who can represent the ideas and the interests that are being discussed at the table. We'll make sure they're here. So I would urge the rest of our caucus members to vote against the motion at this time.

Mr Hardeman: Mr Chairman, I agree with the last speaker. The parliamentary assistant to the Ministry of Environment and Energy was appointed to this committee, subbed into this committee, because of his expertise and his involvement with the Ministry of Environment and Energy. I have all confidence that Mr Galt will be present during the clause-by-clause debate and I have no reason to assume that he would not be prepared to answer

questions as they were asked, so I do not believe it's appropriate to pass a resolution that that in fact must happen.

As the process is unfolding, it in all probability will happen. I think we should carry on and hear from the delegations who are here to present to us, rather than to sit and debate who should and who should not be sitting around the table on the first day of clause-by-clause.

Mr Hoy: Would you repeat the motion for me, please?

Ms Churley: I move that this committee formally request the parliamentary assistant to the Minister of Environment and Energy to make a presentation before this committee during the first day of clause-by-clause deliberations and answer questions relating to the effect of the Planning Act amendments, Bill 20, on the environment and the people of the province of Ontario.

The Chair: Thank you. Is there any further debate? Seeing none, I'll put the question.

Ms Churley: Recorded vote.

Ayes

Churley, Hoy.

Nays

Baird, Fisher, Hardeman, Murdoch, Ouellette, Skarica, Smith.

The Chair: By a vote of 7 to 2, the motion fails.

Ms Churley: I don't know what you're so afraid of.

CANADIAN ENVIRONMENTAL LAW ASSOCIATION

The Chair: Our next presentation this afternoon is the Canadian Environmental Law Association. Good afternoon. Sorry for the delay. We appreciate your indulgence.

Ms Kathleen Cooper: Thank you. Before I begin, I just want to clarify something that Mr Hardeman just said in the context of that debate you just went through. In fact, there were no meetings with the Canadian Environmental Law Association and the Minister of Environment and Energy on the matter of amendments to the Planning Act, as I think I heard you say. There should have been. There were not.

There was very little consultation during the fall as very quickly these changes to the Planning Act and the policies were made. There was one very brief meeting with members of citizens and environmental groups in September concerning possible changes to the Planning Act. That was not consultation, as far as I am concerned. I just think it's important to clarify that matter. Now, on to my presentation.

Just for your information, the Canadian Environmental Law Association is a non-profit, public-interest organization specializing in environmental law and policy. We have had at least eight years of experience in land use planning work in Ontario. Four years ago we assisted with the formation of the land use caucus of the Ontario Environment Network, which is a network of over 90 citizens and environmental groups from across the province.

Through that structure, we have worked with citizens and environmental groups across the province on matters

of land use planning reform, both in terms of direct client representation and in the consultation that was undertaken by the previous government on planning reform.

Those organizations with which we have worked have detailed involvement in planning issues in their communities all the way to OMB hearings. That's just some background on who CELA is and whom we have worked with on this matter.

Just to summarize the concerns we have with Bill 20, the changes in this so-called Land Use Planning and Protection Act are regressive in many respects. We believe that the bill will remove essential planning tools and thereby contribute to continued environmental damage, urban sprawl and renewed delays in the planning process. The bill will also contribute to excessive costs as a result of both delay and conflict during the process itself and as a result of bad planning decisions.

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A little bit of history. The need to reform planning was well known in the late 1980s. It's fair to say that the controversy around planning decisions contributed to the fall of the Liberal government in the late 1980s. Much of that controversy surrounded the inability of the system to adequately address environmental concerns.

With the establishment of the Sewell commission, there was in Ontario one of the most extensive consultations I have ever participated in and that I think this province, perhaps even Canada, has ever seen. The planning reform package that was developed was a result of extensive consultation and compromise and represented a broad consensus and a very valuable step forward in Ontario. Bill 20 reverses those reforms. In particular, it reverses reforms that were broadly supported by citizens' groups, by environmental groups that have extensive experience in the land use planning system.

I want to draw your attention for a moment to the media background that was distributed on the day that Bill 20 was introduced. On a fact sheet about changes to the planning process, the introductory paragraph says: "A coalition of municipal leaders, planners and developers, the people who actually use the land use planning system, says the current system hurts Ontario's competitive position."

I can't emphasize enough to you how insulting citizens' groups and individuals and environmental groups that have been deeply involved in this process find that statement, that they are not people who actually use the land use planning system. These are thousands of people across the province: They are ratepayers' groups, they are cottagers' associations, they are individuals and members of citizen and environmental groups. They have spent thousands of hours of their own time volunteering and thousands of dollars of their own money, taking precious time away from their families, because they care very deeply about their communities, about the environment and about the shape of their communities. They use the land use planning system just as much as municipal leaders, planners and developers do.

Nor are the changes in Bill 20 supported by the public at large. There have been several polls recently; every six months there are opinion polls done of Canadians' views

on the environment. The most recently published one, in October, pointed out that a very high percentage—I think it's 78%—of Canadians supports increased environmental regulation in Canada and does not support reliance on voluntary encouragement as a strategy for pollution reduction and environmental controls. The changes in Bill 20 essentially—and I'll get into it in a minute—go back to a voluntary approach because of the vagueness of the language of subsection 3(5).

There was another poll in the greater Toronto area which found that residents thought that provision of environmental services ranked first among all municipal services listed, and most survey respondents wanted spending increased on environmental protection. That public faith in effective environmental regulation seems well placed.

There was another survey done by KPMG consultants in 1994. It was a survey of managers in Canadian companies, hospitals, municipalities, universities and school boards. When those managers who had environmental management policies in place were asked what had motivated them to establish the policies, 95% said the number one motivator was compliance with regulation, 69% were motivated by potential director liability and only 16% were motivated by voluntary government programs.

There is similar scientific consensus of the need for environmental protection: the need to protect the intrinsic value of biodiversity, the need to reverse environmental degradation and the need to ensure a healthy environment as the basis for a healthy economy. There are several citations provided for you in this brief to support those statements.

There's equally broad consensus about the need to curb urban sprawl and scattered rural development. Again, there are many citations in this brief about the need to curb sprawl, including support from the Provincial Auditor of Ontario, who pointed out in his most recent annual report that there was "significant progress" made with the previous government's land use planning reform package towards establishing "specific roles and responsibilities for the province and municipalities, helping to eliminate inconsistencies and unnecessary duplication in planning decisions."

As well, there are many studies in the United States and in Europe pointing to the need to move towards a more compact form of development. The recently published Golden commission report and background reports equally stress the need to curb sprawl for the sake of environmental protection and saving costs.

The need to curb sprawl also has not escaped the scrutiny of bond raters. In 1990, bond raters gave Howard county, Maryland, which is near Baltimore and Washington, DC, an AAA bond rating. They said the limits that were placed by the county on development, including a farm land preservation program, enhanced the county's fiscal integrity by demonstrating a commitment to a high quality of life and controlling the costs of development.

These widely held views of the need for environmental protection and the need to curb sprawl did not escape the authors of Bill 20. However, the importance of environmental protection only survived into the title of the bill.

The word "protection" in the title is a misrepresentation of the content of the bill and the associated regressive changes that have been made to the proposed provincial policy statement. In fact, I would submit that the government is trying to apply a false green veneer over essentially political favouritism to the development industry by making the changes that have been made in Bill 20.

More importantly, under this, what I consider to be a false green veneer, the stated goal of streamlining the process and saving costs will not be met by Bill 20. The reason for that is because the key changes that have been made in Bill 20 substantially reinstate the planning system that was in place in the late 1980s and for which there were so many calls for reform. In particular, the decision to go back to the standard of "shall have regard for" policies in subsection 3(5) of the act means that we will again have situations where policy will be ignored. On top of that, the language that has been chosen in the changes makes the rules very vague, so we have vague rules that can be ignored.

The key point is that what the government has done in Bill 20 is stripped municipalities of the tools to say no when they need to say no. There was a key provision in the old policies and backed up by the "shall be consistent with" standard in subsection 3(5) that came to be called the "'no' means 'no.'" It was a provision to protect natural heritage areas from development. It was finally a provision where "no" meant "no." It didn't mean "maybe," it didn't mean "later"; it meant "no."

The reason we will go back to the site-specific battles each time a development application comes along instead of the goal of upfront planning that was the original objective, and I'll give you an example—there are several examples in this brief for you to review. Without the tool, without the ability to say no when they want to say no, if they're in a situation where they want to say no to a development that could be potentially environmentally destructive—if they say no, developers will challenge them at the OMB. If they say yes, citizens' groups will challenge them if they have a chance; there's no intervenor funding, they have limited resources etc.

The point here is that it appears you're under the impression that if you strip away the environmental protection tools, public concern and motivation to protect the environment will also disappear, and that is simply not the case, that the result will be community discord and costly delay.

Another problem with Bill 20 is that the government has removed important quality control measures concerning official plans. There's no longer a definition of an official plan in the act. The ability to prescribe the contents of official plans is deleted. This was essentially a quality control measure that was widely supported during the four years of consultation that led up to the previous reform package. If you add that vagueness to the ability to process a private official plan amendment in 90 days, we're going to see a return to being able to criticize official plans as being neither official nor a plan.

1400

There are also important deletions in Bill 20 of planning tools that will enable municipalities to curb urban and rural sprawl and ensure public involvement. On the

matter of tools to curb sprawl, some of the changes that have been made, the bill takes out the restriction on municipalities on exclusive zoning. It takes out the apartments-in-houses provision. It takes out the prematurity test whereby if developments come forward before the servicing is in place, municipalities have the ability to say no on the basis of prematurity. All of those were tools that enabled municipalities to ensure a movement towards more compact form, transit-supportive land use planning etc., all those things are removed. There are several restrictions as well on public involvement that are of concern.

I will turn now to some of the examples that are in here to make the point why I think we are basically going back to the old system. Because we are reinstating a system of vague rules that can be ignored, we're back into the same situation that's existed, for example, in Eagle Creek and West Carleton. That was a situation in the late 1980s where the West Carleton township council approved a golf course development as compatible with the function of a class 1 wetland. The MNR, the Wetlands Preservation Group of West Carleton and a private citizen objected and the proposal was the subject of a lengthy OMB hearing.

Despite these objections and despite the fact that the matter was going to a hearing, construction of the golf course went ahead. The OMB did in fact conclude that environmental damage occurred during the construction of the golf course and that the operation of the golf course would lead to ongoing environmental degradation, which has occurred. The rezoning necessary to operate the golf course was denied by the OMB. Nevertheless, the golf course was built. The township decided, through a sort of interesting, circuitous route that I won't get into—it's in a footnote—decided not to prosecute for contravention of the zoning bylaw and the mayor was given an honorary membership in the golf course.

In this situation, local citizens, The Ministry of Natural Resources, the OMB all concluded that a golf course was indeed incompatible with the function of a class 1 wetland. The provincial wetlands policy statement was only in draft form at the time, but it did provide that development interfering with the function of a wetland should be prohibited. The township spent over \$100,000 defending its decision, only to hear from the OMB that indeed the development would interfere with the function of the wetland and should not have been allowed. The Ministry of Natural Resources had to spend tens of thousands of dollars on the matter as well. Meanwhile, the golf course was constructed and, as I have noted, controversy over pesticide and fertilizer contamination from the site continues to the present day.

This example is typical of situations where policy is ignored at every step of the process despite the views of provincial officials and objections and interventions of local citizens. The matter had to drag on for over two years and a lengthy OMB hearing only to confirm what the province and citizens had maintained from the start. It also underscores the difficulty of small municipalities to exercise independent judgement and to properly evaluate the environmental implications of development proposals.

The point here with the vagueness in the rules and the ability to ignore the rules is that with clarity, as existed in Bill 163, as to the status of policy, that is, it shall be consistent with, "We mean it; yes, you should apply it," and a clear "No means no" on development in provincially significant wetlands, this kind of development could have been directed to a more appropriate location and a lot of time and money could have been saved.

This kind of situation can now be repeated from Kenora to Cornwall, and it will be, because people will continue to be concerned about these kinds of proposals and the municipalities will not have the tools to say no to these kinds of proposals.

I want to draw your attention to a typographical error in the next example. It's on page 13, the discussion of Sydenham Mills in Grey county, a matter that Mr Murdoch will have some familiarity with. In the first paragraph, where it says, "This plan would have built about 25 estate residential homes," 25 is the correct number; however, further down where it notes that nearby residents were concerned about "the installation of up to 40 wells and septic tanks," that should say "up to 25 wells and septic tanks." It's in the second-last line of page 13. If you could correct that, I would appreciate it. I just noticed that while I was sitting down.

Mr Murdoch: I'm getting a question on that for you.

Ms Cooper: Okay.

This situation is another example of lack of policy tools to say no to environmentally harmful developments and the unnecessary expenditure of enormous amounts of time and money by many different people who are involved.

This was a very complicated situation. The proposal was a plan of subdivision in the headwaters of the Spey River. The area is characterized by springs, crevices, easily blown-over trees and generally obvious indicators of a very shallow water table. Local residents nearby were very concerned about the water table effects of this development because they frequently experienced spring flooding and didn't want to see clearing and installation of wells and septic right in the headwater areas. The ministries of Environment and Natural Resources also noted the potential for even more distant downstream impacts along the Spey River if development were allowed in the headwater area.

At the same time that there was a plan-of-subdivision application circulating in the province and local citizens had asked the minister to declare a provincial interest in the matter, the developers decided to make a separate application at the local level for eight severances and a roadway, presumably to avoid provincial scrutiny by applying for a series of consent applications at the local level as opposed to a plan of subdivision that has to be circulated at the provincial level. This technique is often referred to as subdivision by consent.

After many months of debate, a review of the proposal by the Environmental Assessment Advisory Committee, the many aspects of this matter ended up in four weeks' worth of hearings at the Ontario Municipal Board. The ministries of Environment, Natural Resources and Municipal Affairs were all separately represented by counsel,

the appellant was represented by counsel and of course the proponent was.

Incredible amounts of money were spent on lawyers and consultants to debate the merits of this proposal, and after all the time and effort that was expended, it became clear that no amount of engineering would address the water table concerns that were raised right from the start. The board's decision discussed the inappropriateness of the proposal on this particular site and the approach taken by Grey county officials to such matters in general.

There's a quote in the brief from the board's decision, "Although the proposed housing may well be desirable and marketable, it is in no way essential nor is this the only location in Grey county where such housing can be located." The board also said, "However, even if it was the last site in Grey county, the board would still consider the risks unacceptable."

The board went on to say, "In the board's view and considering the letter and obvious intent of the Planning Act and this official plan, there are major flaws in the approach taken by the county planners and council to this proposal and generally to estate residential housing in the rural areas of Grey county."

Once again, this situation illustrates the need for clear policy with clear status to give municipalities the tools to say no up front when they need to. That is what you're stripping out of Bill 20 and the policy statements.

I should probably stop there. There are five examples for you to review and a detailed discussion of the excessive costs of sprawl. Given the broad matters of public concern and public interest raised about this bill and the policies, we urge the withdrawal of Bill 20 and the proposed provincial policy statements. Sorry to go on too long.

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The Vice-Chair: It's not too bad. We will have one very short question from each of the parties. We will start with the PCs, please.

Mr Hardeman: I just want to clarify. I think at the start of the presentation there was some discussion about the meeting. In fact, I understand there was a meeting with the Ontario Environment Network held in September with the minister, at which about 40 people were present. There may be some debate whether that is consultation, but I just wanted to clarify for the record that the meeting did take place. I also wanted to point out for the record—

Ms Cooper: No, that is not true. I'm sorry, that is not true.

Mr Hardeman: Well, we will check it further. That's the record that's here, and obviously I was not at the meeting so I cannot personally—

Ms Cooper: Neither was I.

Mr Hardeman: —say it happened, but I've been informed that the meeting took place. I also wanted to point out that the Canadian Environmental Law Society was invited to attend the stakeholders' meeting with Mr Galt; we had previous debate to talk about the policy statements, but at this point in time they have refused to meet to discuss the impending policy statements, which are presently out for discussion. I just wanted to put those two items on the record.

Ms Cooper: May I respond?

Mr Hardeman: I also wanted to, going to your first—
The Vice-Chair: Excuse me, Mr Hardeman. I'm sorry to cut you off, but—

Ms Churley: She should have the opportunity to respond to—

The Vice-Chair: It's not a question, and I'm just—

Mr Hardeman: It's a statement.

The Vice-Chair: There's not a question involved in this. He was making a statement. The official opposition, please.

Mr Gerretsen: We gladly yield our time to Mr Murdoch, since we feel that whatever he would say would obviously help our cause.

Mr Murdoch: I'm certainly appreciative of my friend across the way. I'll have to be more careful of what I say to him from now on and be nice.

I'd just like to point out, because I don't have a lot of time and we could debate this and the Mills one all the time, that under the previous bill, which is Bill 163 under the NDP government, they've just approved a subdivision—not just; about six months ago, before the election—closer to the Spey head with no problems. So unfortunately it's an all-draft approval. So all this was in somebody's mind, who had a vendetta against people who were involved. I'm sorry, they've just approved a subdivision closer to the Spey River. Right, that's fine, the NDP government.

Ms Cooper: Not under the rules of Bill 163 or the new policies.

Mr Murdoch: Yes.

Ms Cooper: No.

Mr Murdoch: They did. They just approved it. Well, that bill was in power at least eight months ago and that's when it was approved. It had draft approval. I'm sorry.

Ms Cooper: I think it's important as a matter for the record here that Mr Murdoch had a conflict of interest. He had a development interest in—

Mr Murdoch: No, no conflict. Careful.

Ms Cooper: You had to declare a conflict many times with respect to the Sydenham Mills development—

Mr Murdoch: No, I didn't declare any conflict. Let's get it right.

Ms Cooper: —as chair of the local conservation authority, as the reeve of Sydenham township, and when you were involved on the Grey county planning advisory committee and the Grey county planning approvals committee, you had to declare conflicts repeatedly over the Sydenham Mills proposal.

Mr Murdoch: There's one more. You forgot I was chair of the conservation authority too.

Ms Cooper: Right.

The Vice-Chair: Excuse me. We're not into debate here. I thank you.

Ms Cooper: I think it's important to put that on the record.

The Vice-Chair: I thank you very much. Again, it was a statement; it wasn't a question. I thank Mr Gerretsen for forfeiting his time. On to the third party, please.

Ms Churley: Very quickly, back to the consultation issue, this government is not listening to what you have to say anyway.

Ms Cooper: Clearly.

Ms Churley: They only listen to developers on this. I just want to get into the whole consultation area. I want you to clarify and be able to respond to what Mr Hardeman said. But I also want to ask—you saw the headline in the Globe and Mail today: "Ontario Unfettering Dump Firms." Were you consulted on that? Were you consulted on any of the other masses, pages and pages worth, of deregulation and cuts that are going on in the Ministry of the Environment and Energy?

Ms Cooper: Starting with the Planning Act, we did not see the point of attending the recent meeting with respect to the proposed provincial policy statement. We felt the time for consultation was prior to issuing this draft which is when the development community and the Association of Municipalities of Ontario were consulted—we were not—on the changes to the policy.

The views we have on provincial policies are a matter of public record for the last four years. We basically did not feel like wasting any further time. We had to focus on this committee. We will do a written response to the changes to the policy.

With respect to the other consultations, there was no meeting with 40 members of the Ontario Environment Network in September. That is false.

The Vice-Chair: Excuse me. I think you've answered the question.

Ms Cooper: She asked me several other questions. Did you want me to answer them?

The Vice-Chair: Maybe at a later date. The problem here is, you were granted 25 minutes; you used 23 for presentation. According to the standards, in fairness to everybody else as well, you are entitled to 25 minutes. We have now exceeded—

Ms Cooper: You would like me to stop. That's fine.

Ms Churley: Madam Chair, before we move on, perhaps what would be helpful to clear up some of the matters of consultation is, I would like to ask that the Minister of Municipal Affairs be asked to table with this committee all the people he formally consulted with and held meetings with. I'm sure we won't get information about the informal consultations that we know happened, but at least we should be presented with the formal consultations that took place, the lists that are available.

The Vice-Chair: I would be glad to make a request to provide that to you as soon as possible.

Ms Churley: Thank you. I'll follow up on it tomorrow.

BEAVER VALLEY HERITAGE SOCIETY

The Vice-Chair: I would ask that the representative from the Beaver Valley Heritage Society please come forward. Welcome to our hearing process, Mrs Anderson. Just so that we can set the parameters around how we're proceeding in these hearings, there is a 25-minute allotment to be used as you see fit. You might note, though, that if you would like a question-and-answer at the end, perhaps maybe we could leave that. Otherwise, feel free to do with the time as you wish.

Mrs Muriel Anderson: Good afternoon and happy Valentine's Day. I just came from a household of seven children, and if they hadn't taken all the cookies, I could have brought some for you.

I'm Muriel Anderson and I'm president of the Beaver Valley Heritage Society. My husband and I live on a small farm in the bottom of the valley. Thank you for giving time to hear our concerns.

The Beaver Valley Heritage Society is a non-profit citizens' group incorporated in 1981 to preserve and protect the unique natural environment of the Beaver Valley. It endeavours to represent the interests of both the valley's year-round and part-time residents. Our role is to present the views of our members in a clear and organized way to the decision-making bodies that have jurisdiction over the valley. Our society supports development that occurs in areas designated through proper planning for growth, provided that such development or its accumulated effect does not compromise the environment.

We believe that a planning act reflects the agreement on how we live together on the land that is available. Therefore, the Planning Act must be based on a consensus reached by the citizens, protect the public interest, provide clear foci for protecting the environment and clearly define roles and responsibilities.

With these broad purposes or needs in front of us, we look at the proposed changes to the present act and we see a great backward move on the part of your government. That's the PC government, of course. The present act was developed after two years of consultation with citizens of Ontario. We are dismayed that by a quick rewriting we can be so easily and rapidly dismissed as having no rights over the development standards of our communities.

It seems to us that your Minister of Municipal Affairs and Housing is just suggesting a return to the old system. All stakeholders came close to agreeing that the old process didn't work for the good of anyone. The lack of vision in the proposed changes and the hasty time lines cause us to fear that opportunity for planning our lives together is being denied. Your proposed amendments negate the concerns so carefully stated by the citizens of Ontario during the past consultations.

1420

The community groups, the environmental groups and the public interest groups have never opposed planned and fiscally responsible development. Since the present act has only briefly been part of our history—less than 10 months—there is no statistical evidence that it has prohibited or inhibited development. We believe the act should be left in place and tested for its efficacy in order to prove whether or not good planning stands in the way of a growing economy.

Good planning does encourage a stable society because the directions are clear to all participants. Poor planning is time-consuming and expensive. Each time in the future, as in the past, that an environmentally destructive development proposal is applied for, there will be a long, site-specific confrontation, and valuable energy and money will be consumed. The recent floods in our small Beaver River have shown the extent to which poor or bad planning can cost individuals, insurance companies and municipalities—the taxpayers. The flood is over, but the problem remains where severances were allowed on floodplain lands.

To quote from a Toronto Star editorial: "Good planning is, in fact, a spur to economic growth, while bad planning costs taxpayers. It encourages insufficient use of existing infrastructure and forces up demand for more—sewer lines, highways, transit etc—to service far-flung developments."

There is no mention in the revised proposals of the need to preserve productive land or encourage compact development, and only weak proposals on protection of environmentally sensitive areas. Rather, these new items encourage urban sprawl, rural strip development and the using up of more good and necessary agricultural land that we need for food production. The wetland areas are our recharge areas of uncontaminated water, an absolute essential to healthy living. The rewriting of guidelines that loosely protect our water resources is unacceptable. The clear set of rules newly in place since March 1995 is what our communities want. Protection of the environment is strongly supported by the vast majority of Ontarians. It is very important in Grey county. Our wealth is to be found along the Georgian Bay shoreline, the Niagara Escarpment, our class 1 and 2 wetlands, our old-growth forests, the rare plant areas, the cold water fishing streams, our crystal-clear and pure groundwater, and our many scenic valleys, of which Beaver Valley is one.

Rural tourism is the up-and-coming industry of our global village. Our cities have become similar in every nation, but the geography in every country is varied. This is where economic gains are to be made. But it means greater protection will be required for our rural landscapes, including those features that are distinctive to them. With bad planning, this economic base can be quickly destroyed. Good planning will provide for development, expand the tourist trade, enhance our environment and protect our community values.

Bill 20 withdraws the need for a municipality to have a comprehensive official plan that speaks to the chief planning needs. At the same time, the provincial government is not retaining responsibility for approving plans that have been approved by upper-tier municipalities. In denying this important provincial role, the comprehensive planning at the local level may not take place. This will work against any serious planning in our communities. The suggested time line of 90 days, from six months, for amendments to an official plan indicates the lack of permanence and dependability of any plan. Again, time and money will be lost as the stakeholders debate the direction of planning in a municipality. In fact, this 90-day period establishes an ad hoc approach to planning in Ontario. Will this create clarity and certainty for those seeking development and economic progress? No. Rather, it will produce rancour and division in our communities.

While purporting to give municipalities more local autonomy, Bill 20 takes away their power to refuse development where infrastructures do not exist. This may lead to an OMB hearing and a requirement to provide expensive infrastructures for the benefit of a developer.

The suggested appeal time of 20 days severely limits the participation of the public in the plan approval or amendment process. Studying complex documents, consulting with a group or an executive and finally preparing

an adequate brief for submission takes more than 20 days. We read this as a definite rejection of the expertise that exists in society and that is available to the decision-makers in our province. Under such conditions more OMB hearings will be necessary as there will be no time for mediation actions. The limitation on public input will necessarily lead to more unrest and dissatisfaction with politicians and government generally.

In consideration of the importance of good planning in Ontario, we urge you to act on the following recommendations:

(1) Consider that a planning act is a document of how we are to live together and not only an economic strategy.

(2) Ensure that all Ontarians dwell in livable communities that protect a high quality of life.

(3) Allow the present Planning Act to remain in place for 1996-97.

(4)(a) That statistics be logged over the time period from March 1995 to December 1997.

(b) That the above information be readily available to all.

(c) That consultation with all stakeholders on planning matters take place during this time.

I would like to add that our brief on changes to the policy statement section is not included in this brief and will be forwarded to the appropriate committee next week.

That is my submission.

Mr Gerretsen: Thank you very much, Mrs Anderson. You've certainly put a different focus in your recommendations than some of the other briefs we have heard. I really like this concept that the Planning Act is not just an economic strategy document, but a document as to how we develop the communities in which we live.

Bill 163 is not one of my favourite documents, but I do agree with you to this extent, and that is that at least the act should have been given its proper length of time in order to determine how it was going to affect development. Because so far many developers who have come in here have said one of the reasons why development hasn't been going on over the last year or so is because of Bill 163, and then others have said it isn't, it's because of changing economic circumstances etc. I totally agree with you that certainly the act itself has not been given any sufficient amount of time to determine how it would have affected the whole planning process.

One of the things that has been taken out of the act is the whole notion of public participation, and that's something I'm a great believer in. One of the areas that they've taken it out of is the approval of subdivisions, on the theory that once a property has been rezoned, then presumably what goes on that property in detail, which is normally sketched out in a plan of subdivision, is of no concern to the community and to the people in the immediate area, which is something that I totally disagree with. I think the layout of subdivisions and how the land is utilized even within the zoning that is allowed on that property is of a great concern to the people in the community. It also gets rid of a lot of turmoil that may happen without the public meeting. I wonder if you have a comment on that.

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Mrs Anderson: Certainly I have. We are a group of people who are vitally interested in land use, because you can't protect a valley—which is our primary concern, to keep the valley as beautiful as possible for the people who live there and the people who play there and the people who pass through there. The way the land is used is of utmost importance, and certainly if you're going to have a subdivision near any other environment that's peopled with people, there's going to be strife if they don't have a choice of input on that. I think it speaks ill of a government that has cut that out.

This 20-day short appeals period is very bad for everybody, not just for the public citizens. It's very bad because it means you have to go immediately from the first day, supposing you get—well, in our area, I got the letter today for this meeting delivered by Purolator in Toronto at 10:45. If I were doing an appeal process, I might wait five days, and if there happened to be a weekend in between, I might wait seven days. And if I wait seven days, I'm probably going to get ready to go for an appeal straight to the OMB rather than to wait for—

Mr Gerretsen: You see, I think the government is somehow of the view that we can have an economic resurgence of this province if somehow we just deal with municipalities and developers and leave the general public out of it. I think that's why a lot of the public meeting requirements have been taken out of the act.

Mrs Anderson: We are the municipality.

Mr Gerretsen: That's correct. You're right on.

Mr Hampton: I want to ask you a general question. Given the changes in the legislation the government is proposing and given the changes in the policy statements being proposed, and given the fact that the Ministry of Natural Resources will lose about 2,000 of its staff over the next 12 to 15 months, and I expect there will be similar reductions in the Ministry of Environment, if this legislation passes and the policy statements are implemented, where do you think that will leave planning in the province?

Mrs Anderson: I think it will leave planning, and the loss of conservation areas in the omnibus bill is going to leave planning, as an ad hoc business. You buy your way in and you're in.

Mr Hampton: You buy your way in and you're in.

With the limitations on appeal periods and some of the other limitations that are part of this legislation, what's your sense of how groups who care about planning and who care about environmental protection and proper resource management will react, both within the planning process that comes out of this and in terms of other avenues they might pursue: the courts etc?

Mrs Anderson: All the groups interested in proper land use will probably have to work out different strategies. We probably won't be responding to legislation by briefs, because we don't feel we're being heard. Therefore, we're going to have to do something that makes much more noise, quite a different strategy. You're going to have a very irate, noisy population in Ontario.

Mr Hampton: Your major recommendation here is that the present Planning Act be allowed to remain in

place for 1996-97. Do you have the same view with respect to the policy statements?

Mrs Anderson: Oh, definitely. You can't separate them, I don't think, although you have for this committee; you've separated the Bill 20 body away from the policy statement. But I think Bill 163, the previous bill, plus the policy statements stand as a unit.

Mr Murdoch: I won't ask any questions, but just thank you for coming down and making your brief, and I also thank you for making your brief at Bill 26 at my hearings in Owen Sound. I appreciate that. You always have lots to say and lots to tell us and you stick up for your rights, and that's what we want. I just want to thank you. I appreciate your coming in.

Mrs Anderson: I thought it was rather a short brief.

The Chair: Don't go yet.

Mrs Anderson: My ride is going to go back to Grey county without me.

Mr Gerretsen: Bill will take you home, then.

Ms Churley: Is she one of your voters? You're being awfully polite.

Mr Murdoch: Yes, she's a voter. You're always polite, aren't you, to your voters? We may not always agree.

Mrs Anderson: I'm a voter. He lives in hope.

Mr Smith: I have just one quick question. I noticed with interest that on page 3 of your document you made reference to the increased importance of rural tourism. As an owner of a small farm and a land owner, I'd like to present this to you. Would you agree that the granting of additional authority to municipalities in terms of local planning decisions would allow you to foster the local economic development initiatives that would contribute to your community better than a provincial standard?

Mrs Anderson: Yes, for sure. Every community has to do its own economic development, because no one is going to do it for them. In our area, what we are trying to foster, some of it, is going to be destroyed by this bill.

The Chair: Thank you, Mrs Anderson. We appreciate your taking time to make a presentation before us today.

GEORGIAN BAY TRUST FOUNDATION

The Chair: Our next group up is the Georgian Bay Trust Foundation. Good afternoon.

Mr Christopher Baines: My name is Christopher Baines. I am the president of the Georgian Bay Trust Foundation Inc. For those of you who may or may not know what a trust foundation is, essentially look at us as a cemetery commission in that we don't look at our assets as assets but rather as liabilities. We have to take care of these in perpetuity, if you will.

Presently we are in our fifth year of operation. We're a federally registered, charitable non-profit, and our business is preserving and protecting "environmentally significant" sites on the eastern shore of Georgian Bay. We currently have three properties worth about \$880,000 altogether under our stewardship, with about another four or five in the pipeline or under consideration. I might point out that at the present time most of our cash and islands have been as a result of gifts from Americans rather than Canadians, but that's another point.

If you want a definition of what it is that we look at preserving, it's the definition of "environmentally sensitive" as indicated here. Environmentally significant real estate is defined as rights that control the use of a parcel with attributes of geographical, biological, ecological, archaeological, palaeontological, cultural and/or historical significance. Indeed, all our properties do now and certainly will in the future have those attributes within them; otherwise, we wouldn't accept them.

More background on land trusts: There are approximately 1,100 land trusts right now in the United States. There are about 12 or so to my knowledge now in Ontario, and I think you're going to find that this is the hot new "industry," that term, in the environmental conservation movement. We're really modelled after the national trusts in England and most particularly the Nature Conservancy in the United States, whose motto is, I might say, "All action and no talk." My being here today, I'm an exception to that rule.

I'd also like to congratulate the government for a recent action under the Ministry of Natural Resources which has made it easier for our organization and other trusts to work, and that is the change to the conservation easement legislation which will allow trusts such as ourselves to hold easements. Quite frankly, that will be a growth area for us.

Nevertheless, you will see an evolution of organizations like us in the partnerships developing in the new reality, that which we all face these days, and that is particularly that we walk the talk. As various provincial and federal agencies and ministries run out of money, it's organizations like ours, that are in the field, that deal with land owners of identified significant properties, either by ourselves or government agencies, that actually will end up, hopefully, stewarding this property. We have a number of relationships with a number of different governments and bodies that seek to preserve and protect these environmentally significant properties.

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As such, we have a stake in this, and that's the reason we're here today. We are land owners. We are stewards of some very important property. Most particularly, we're owners of property in an area, on the eastern shore of Georgian Bay, where the environment is what sells. It is the industry. The fisheries were exploited in the late 1890s, the lumbering was all gone by the 1920s. There is nothing else at the present time other than the natural environment and what it provides, and we are an actual agency that is delivering on that. Our actions, by preserving and protecting sites up and down—and remember, we're very young, but give us 10 or 15 years and wait—tangibly benefit the whole society in our area. The municipality, certainly all developers and all future land owners, actually benefit from our actions.

Indeed, proof of that is my latest appeal to the Assessment Review Board. The impact of us getting a lower zoning down to a natural state conservancy in the township, the archipelago or whatever, is that the assessor, who had never heard of a land trust before, suddenly says, "So what you're saying is that if you are putting restrictions on the development of this property in perpetuity, that makes the land around it actually worth

more, because that owner will not see development beside his property." Consequently, the assessor assesses that property more. So there is cause and effect all the way down the pipeline.

What I'm stating here is a philosophical point that I think it's important the Planning Act reflect. We are sympathetic to the interests of the development industry in trying to get through the red tape and speed up easements and subdivisions and severances etc. However, what we don't believe is currently reflected in the current legislation is the fact that we are, as I said, an industry unto itself as well, which is perfectly on a par with what a subdivision or the development industry is itself. As I stated, the environment is the industry we are from, and we would like that specifically reflected in specific points as I have pointed out here in this brief with these recommendations.

I'm not going to go through them all because it's rather explicit here, but I would point out two in particular. Under (d), which is public notice, recommendation 6 on page 4, "Establish a public registry of interested parties to be informed of applications and appeals concerning particular topics or geographical areas," that would certainly be of great importance to us. As other speakers have indicated, we are all volunteers, we do not have any paid staff, we have a diverse board, and it's very difficult to keep on top of all our interests. We will have quite soon probably about 10 or 12 different properties up and down a wide area in three or four different municipalities, so for us to have the manpower to respond in a judicious way will be a challenge. If a registration such as this were to occur, we would certainly avail ourselves of it and take advantage of it, again to protect our own particular interests as a land owner and as a steward.

The other item would be point (e), which is the government review period. We would think that rather than 90, it should go to 150 days, particularly when these reviews of an application would run during the months of December, January or February, and particularly because all of our properties are islands. As you know, right now the ice is good some weekends and not good the others, and it's a challenge to get up there, and when you do get up there, it's covered in three feet of snow. So if there is something that's under review or that is contentious particularly, it's a challenge for us to actually do due diligence to comment on the particular state of affairs.

I would point out to you that, for instance, we do not accept or engage in the purchase or acceptance of properties during the winter, quite frankly because we can't conduct an environmental audit. It's difficult with two or three feet of snow to ensure there are no PCBs—not that there ever would be.

So those are two very specific points. The rest are contained in here. But I did want to give you and share with you our philosophical bent and let you know that on behalf of land trusts, look for a lot more coming. If there are 1,100 now in the States—and I recently attended a rally of some 950 trust directors and staff down in the States—you know it's going to happen up here, and quite frankly it should, because hopefully, we will be able to deliver on what has to be done as government increasingly pulls back. We accept that and understand that. We

don't necessarily like it or agree with it, but we will do it because it has to be done. But for that, there is a bit of a quid pro quo here, if you will, that we would like some latitude in the Planning Act to allow us to carry out, to give us the tools, if you will, to steward our sites appropriately.

Other than that, I would invite questions.

Mr Hampton: I want to ask you just some further questions about your organization, which I find interesting. Your membership, the people who are part of your organization, are not just found in the Georgian Bay area but throughout southern Ontario?

Mr Baines: There's an interesting quote that one of our directors uses, "I may work in Toronto, but I live in Georgian Bay." The answer to that is, in most cases, we have seasonal residents who have cottages up there, but we do have some permanent residents as well. So their summer cottage would be on the 30,000 islands but they would live around southern Ontario, and indeed in the United States as well, because 30% of our inhabitants, our seasonal residents, are American residents.

Mr Hampton: How do you typically acquire land?

Mr Baines: We've been successful in three different mechanisms: (1) direct donation; (2) we've been lucky enough to work with the federal government to get a change in the capital gains provision in the recent budget so that now instead of just 20% you can get 100% capital gains write-off; and (3) as I indicated, a brand-new weapon, if you will, or tool, I should say, is the use of conservation easements, whereby the individual would continue owning the property and pay taxes, but we would have a conservation easement which would prohibit the development of the property. So basically we have our cake and eat it too, which is the best of all worlds.

Mr Hampton: Conservation easement became applicable to your kind of work I gather about a year ago.

Mr Baines: Just in March, yes.

Mr Hampton: A year ago.

Mr Baines: A year ago, yes, that's right.

Mr Hampton: You're basically saying to the government, as I read your brief: "Don't be in such a rush. Don't throw out all the good work that was established coming out of the Sewell commission and most of the consultations held around and after the Sewell commission."

May I ask you this: If the government fails to follow your recommendations here—in other words, if they go back to "have regard to," if they exempt plans from the minister's approval, if they maintain some of the unrealistic time guidelines that they've set out here—what do you think's going to happen? What do you think's going to happen, for example, in Georgian Bay?

Mr Baines: It's very difficult to speculate on that. We're a determined group, quite frankly, and our experience has been that our donors or potential donors really don't want very much to do with governments, consequently that phrase, "All action, no talk." We will have to adapt, whatever happens, regardless of what the legislation is. It will just put a great strain on our resources to monitor and effectively represent our interests, both at the municipality and at the district and indeed with the

government itself. So in that sense we would see it as retrogressive.

Mr Hampton: What does retrogressive mean, in terms of your ability to do some of the work you're doing now?

Mr Baines: A good question. I would say retrogressive in respect to some of the elements in Bill 163. There was certainly a lot to applaud in that and we would hope that some of that could be incorporated into this.

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Mr Murdoch: I appreciate your brief here. I sort of like what you're saying, if I take it right: If you want to sort of control it, you buy it.

Mr Baines: Or get an easement for it.

Mr Murdoch: Yes, and that's the same. That's fine.

It's too bad you couldn't come around here today. We have what we call the Niagara Escarpment around Huron county, and it would be really nice if you'd buy the whole escarpment, and then we wouldn't have any land owners on it who would have problems. Is there a consideration of expanding, or is it just your—

Mr Baines: Not at the present time. Who knows? When the occasion arises, perhaps there could be chapters or so on, but we're so young right now. We really have to see what happens.

Mr Murdoch: I think it's a good idea and I hope you can expand it into our area. If you need someone to take your message, I'd like to do that.

When you get the land, though, and then of course again you're talking about islands so it's a little different, but do you have it rezoned, like no development?

Mr Baines: Yes, and that is a very interesting point, because quite frankly municipalities have never heard of—nor have assessors, nor has the ministry, quite frankly—restrictive covenance and what we are all about. When we went to the assessment appeal board, it was very suspect as to what our motives were, that any organization like ours would be around. It took quite some explaining to understand where we were coming from, that no, we basically just wanted to protect and preserve this in perpetuity.

Mr Murdoch: The Bruce Trail Association now is doing a lot of that. They were buying land, and basically it's no development, because I know they're allowed to buy 50 acres off the back of a farm where there isn't actually even an access to it because it's part of the trail. So in a sense they're doing that.

Mr Baines: Correct.

Mr Murdoch: But I think this is a good idea and I applaud you on it.

Mr Baird: One of the unique aspects I think your group brings is it's a small local group, locally driven, with a very specific mandate and what not. One of the principles that's being discussed I think as certainly underlying this bill is local autonomy, to try to put greater zoning and planning requirements at the local level. Given the success that obviously your group has had in the relatively few short years and the promise for the future that you've mentioned is the direction you're headed with some of the things, what do you think of the principle of giving local areas more autonomy, where's there's often, I think, at least in my community, a greater

degree of accountability, where obviously government is much closer to people?

Mr Baines: I would say that's a double-edged sword, quite frankly, because we deal with about four or five different municipalities, some of them unorganized, some of them with upper-tier, such as the district of Muskoka and the township of Georgian Bay, and that in itself of course is changing, what with the potential for municipal reorganization.

This gets back to "have regard to" or "be consistent with." Quite frankly, we'd rather see a provincial interest expressed. We're very sensitive to the local municipalities' interests and autonomy, and indeed we would not survive, or it must be political in a sense to understand their needs and interests.

But having said that, I think there is much to say for the provincial government expressing provincial interests in specific environmentally sensitive areas, because when it comes down to a choice between development and a provincial interest, it becomes a political battle that unfortunately I think on some occasions the environmental interests have lost out on, to the detriment of the environment itself.

So the short answer to your question is—

The Chair: Very brief, 30 seconds.

Mr Baines: Yes, I know.

Mr Baird: If there's only a few seconds, then I won't use time. You can start.

Mr Hardeman: If I could, just one question, in the presentation, as it speaks to "shall have regard for" or "shall be consistent with," you indicate that after widespread consultation and consensus, they used the words "shall be consistent with." I would suggest that it was a long way from a consensus that they came to when the choice was made to use that wording.

Mr Baines: With respect, I suppose that's where your opinion lies. I participated in the Sewell commission and made submissions and was very impressed with the to-ing and fro-ing of that, and perhaps it's our impression. I understand your difference and your disagreement with that.

Mr Hardeman: I also participated in the Sewell commission, and I was not one of the ones that would've agreed to the consensus.

Mr Gerretsen: I wonder if I could have your comment on this. There's no question about it that a lot of this is local autonomy driven, and I basically agree with that, but the one area where it sort of misses the mark is that they have equated local autonomy with the fact that we no longer need public meetings, for example, in order to get subdivisions approved or severances approved. I wonder if you would agree with me that that sort of completely misses the mark. You can have local autonomy, but the public input and a public say is still extremely important before a lot of these planning decisions are reached. Would you agree with that statement?

Mr Baines: In the main, yes, but there again I'm sensitive to the time elements and the difficulty and the delays in getting people together. So it's difficult to make a generalized response to that. Certainly, from our part, were there to be any potential subdivisions around us, we would want—and that's why we stated it in here—to be

notified to that effect and would make our response to it. Whether or not that would require public meetings specifically—for our purposes, it's not necessary. We would want to be notified, though, at the very least.

But there again, when you're dealing with, for instance, the municipality of the township of The Archipelago, a very diverse, quite a large municipality, it can take some time to get everybody together. I would think it would be in their own best interests, the politicians of a municipality, to have public meetings.

Mr Gerretsen: By the same token, local autonomy, when it comes to minor variance appeals, has also missed the mark in the sense that what we're talking about is, yes, the original decision ought to be made at the local level, whether it's the council or the committee of adjustment, but there still ought to be an independent appeal to some other body, such as the OMB, that could decide the issue if there is, obviously, a difference of opinion as a result of the appeal being launched. I guess your brief sort of indicates that.

I wonder if you could tell me a little bit more about your organization. How do you differ then from an organization, let's say, like the Bruce Trail Association and the Rideau Trail Association?

Mr Baines: Actually, perhaps there is very little difference, but you could say that the trail is a mechanism to educate the public on the benefits of the environment. And to a certain extent, our sites would be similar. By getting more people to participate to walk the Bruce trail, hopefully more enjoy the environment and would appreciate it more. To do that, they need the tools, which is conservation easements and to own the property and they must maintain it. Similarly, we look at preserving and protecting specific, unique sites, both, as we said, archaeologically—

Mr Gerretsen: But you have no problem then with people having access to the properties that you own and operate.

Mr Baines: Indeed, it's part of the condition. We don't necessarily encourage it. It depends on the particular site. If it's very sensitive, that would be a potential restriction, depending on the land owner and the donor.

The Chair: Thank you, Mr Baines. I appreciate you taking the time to make a presentation before us today.

INCLUSIVE NEIGHBOURHOODS CAMPAIGN

The Chair: Our next group up, the Inclusive Neighbourhoods Campaign. Good afternoon.

Ms Jacqui Buncl: Good afternoon. My name is Jacqui Buncl and I'm the coordinator of the Inclusive Neighbourhoods Campaign. I'm going to use the first section of my time to present a brief, and then I hope to entertain questions from you. I'd like to say just to start that my presentation only deals with the apartments-in-houses provisions of Bill 20.

When the Honourable Al Leach, Minister of Municipal Affairs and Housing, introduced Bill 20, he stated, "This government has promised to promote economic recovery by slashing red tape and getting rid of obstacles to growth." He continued: "Ontario's planning system is tied up in red tape that kills development and jobs. We

will...bring in a system that's faster and less bureaucratic...that people can understand...a system that delivers an answer more quickly."

As an organization that has done education and advocacy about apartments in houses for five years, I want to tell you that Bill 20 in fact will do the opposite of what Mr Leach has stated. The provisions of Bill 20 that deal with apartments in houses run counter to the intention of the legislation as outlined by the Minister of Municipal Affairs and Housing. Instead of promoting economic growth, Bill 20 will hinder economic activity in the building and development industry by creating disincentives to construction of much-needed affordable housing in the form of accessory apartments. It will also create unnecessary obstacles to homeowners wishing to install an apartment in their house. Furthermore, instead of slashing red tape, it will produce needless, complicated bureaucracy for homeowners, developers and tenants. Finally, it will certainly not result in a system that people can understand. Bill 20 will produce a complicated maze of zoning and standards variations which will be incomprehensible to the average person.

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In fact, I will argue during the next 15 minutes that the provisions of Bill 20 dealing with apartments in houses not only run counter to Mr Leach's claims, they also run counter to the direction of the housing policies of this provincial government. The Minister of Municipal Affairs and Housing has stated many times that the province of Ontario wants to get out of the housing business to give the private sector a greater role in housing construction. Bill 20 will do the opposite of this goal. The proposed legislation will choke private enterprise by individuals wishing to build apartments in houses and increase government intervention in their lives. I will also argue that Bill 20 will result in a decline in the supply of this form of private rental housing and will produce housing that is once again unsafe and unregulated.

Before I proceed to substantiate these claims about the likely effects of Bill 20, let me tell you about my organization, the Inclusive Neighbourhoods Campaign, and our history and current work on this issue. The Inclusive Neighbourhoods Campaign, or INC, as we call ourselves, is a coalition of 138 organizations from across Ontario. Many sectors are represented in the coalition, including faith communities, business, labour, construction and environmental groups, legal clinics, social services, women's organizations, housing help centres and registries, seniors' organizations, youth groups, disabled groups, and ethno-specific organizations.

These organizations came together from 1991 to 1993 united in the position that apartments in houses needed to be legalized across the province. At this time, studies indicated that there were 100,000 apartments in houses across Ontario. It was estimated that approximately half of these units were located outside Metropolitan Toronto. The organizations which formed the Inclusive Neighbourhoods Campaign had seen at first hand the problems and suffering resulting from the illegal status of accessory apartments. These organizations found that both tenants and homeowners were experiencing hardship because of the illegal status of apartments in houses in many com-

munities. In order to determine the extent of the problem, the Inclusive Neighbourhoods Campaign organized a public Inquiry into Legalizing Safe Apartments in Houses on June 3, 1993, and we produced a report, which looks like this. A panel of experts heard testimony from planners, community representatives, homeowners and tenants. The panel heard about first-time home buyers who could not afford to pay their mortgage without the income of a rental unit, and disabled homeowners and seniors who were house-rich but cash-poor renting out an apartment for extra income and company.

Peter Simpson, a homeowner living in Barrie, told the panel about his experience of being harassed and fined by his municipality for renting out an apartment in his house where his elderly mother lived. The house had only three adults living in it, but—and this is what Peter Simpson said: “The position of the alderman, the mayor, was that all I had to do was take away the stove. You cannot take a stove from an 82-year-old lady—you take away her independence. I was fined \$3,000.”

Another homeowner who wrote a submission to the inquiry was Jean, a disabled senior citizen who had lost her husband several years earlier. Jean, who did not give her name because of fear of more harassment by her local municipality, wrote:

“The municipality is hounding me. Personally, I feel under seige. My tenant has been very understanding. She is very comfortable and secure in my home. Her help and interest in the garden is also needed for me to hold on to my property. Emotionally, I feel intimidated and much more insecure, watching to see who is approaching my house. The independence I once felt has been affected. Financially, I have managed to be independent and self-supporting without having to rely on very much government assistance. Ultimately, if my rental unit were to be closed down, I would have to move to a high-rise and, unhappily, my tenant would have to find alternate accommodation and I would lose my home of 36 years. The effect of having to sell the property and move after all these years would cause me great mental and physical stress.”

Subsequent to the inquiry and before Bill 120 was passed, Jean did lose her home because she could no longer tolerate being hounded by her municipality. The municipality was harassing her even though her apartment was spacious and safe and she and her tenant had lived harmoniously in her neighbourhood for many years.

Before Bill 120, tenants who lived in illegal apartments in houses were in a legal limbo. The courts were inconsistent in their decisions on whether the tenants living in illegal apartments in houses were covered under the Landlord and Tenant Act. Therefore, tenants were often defenceless against a variety of problems in their units, including illegal rent increases, illegal evictions and property standards violations.

Tenants in illegal apartments also faced an additional disadvantage, since they could not make complaints regarding violations of health and safety standards in their unit without risking eviction. City inspectors who enforce health and safety standards are the same inspectors who could order an illegal unit to be shut down. For example, I personally assisted a husband and his pregnant wife,

who was about to give birth any day, who were experiencing problems in their basement apartment in Scarborough. In anger, their landlord had decided to remove the tenants' toilet. Because they were living in an illegal unit, the tenants could not call on the municipal authorities to rectify the situation; if they did this, they would risk losing their home.

As apartments in houses have traditionally been more affordable than apartments in buildings, many low-income tenants have to rely on this form of housing. Thus, many seniors, newcomers, families with children and single adults tend to live in apartments in houses. For these economically disadvantaged people, living in an illegal unit added another layer to the many problems they already faced. The Latin American Community Centre told INC's public inquiry that for refugees coming “from situations where fear is the dominant feeling, and when you live in an illegal apartment and you don't have rights and are like a second-class citizen, your fear is doubled.”

Finally, a number of fire deaths of tenants living in basements in the Metropolitan Toronto area made the situation even more urgent. It was vital that safety standards for apartments in houses be established and fire inspections carried out to ensure safety.

To change this intolerable situation, local housing groups had been actively lobbying their local municipal governments for many years to change their official plans and zoning bylaws to permit accessory units as of right. They had met with minimal success. This, despite the fact that in 1989 the Land Use Planning for Housing policy statement, released by the former Liberal government, gave strong direction to municipalities to amend their official plans and bylaws to encourage as-of-right zoning for apartments in houses. However, most municipalities refused to change their official plans to allow apartments in houses, despite studies which indicated public support for them.

Indeed, an Environics survey in 1988 quoted in a Ministry of Housing document, entitled *Apartments in Houses Proposed Legislation: Some Facts and Figures*, showed that 75% of Ontario residents favoured “allowing homeowners to add a rental unit” as one way to provide affordable housing.

One of the many consultants hired by municipalities to study the issue was Mr Frank Lewinberg, who conducted extensive research in Scarborough on accessory apartments. When Mr Lewinberg's research clearly pointed to the need to legalize apartments in houses, the city forced him to resign. Mr Lewinberg told INC's public inquiry: “The fact is that, despite all these studies, not one new municipality has changed its zoning.”

Because of the resistance and sometimes outright hostility of municipalities to apartments in houses, community groups realized that the only solution was for the province to take action. The 138 organizations which formed the Inclusive Neighbourhoods Campaign demanded that the provincial government introduce legislation which would allow apartments in houses as of right throughout the province. Bill 120 was introduced in November 1993 and after extensive public consultation was proclaimed as the Residents' Rights Act in July

1994. Apartments in houses became a legal, permitted use across the province as long as reasonable building, fire and planning standards were met.

The Residents' Rights Act brought into a regulatory framework a form of housing that had been previously underground. Section 9.8 of the fire code, which was introduced as part of the regulatory framework for apartments in houses, established fire safety standards for existing apartments. These included smoke alarms, safe means of exit, and fire separations. Homeowners had two years, until July 14, 1996, to bring their units up to standard to comply with the fire code. At the same time, changes to the building code established standards to ensure that new units would be built to meet safety standards. The Residents' Rights Act sets a reasonable framework within which municipalities can set their own standards for such issues as parking, minimum size of units and ceiling heights. For example, municipalities are allowed to set a minimum ceiling height, but they cannot set their minimum as higher than six feet, five inches. Under the Residents' Rights Act, municipalities continued to have control over many of the important issues regarding apartments in houses, such as the physical characteristics of the neighbourhood, the house, the lot and property standards.

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For the last year, the Inclusive Neighbourhoods Campaign has done extensive education across the province about the new fire safety and planning standards for apartments in houses. Along with local housing help centres and community organizations, we have organized community forums to educate tenants, homeowners, welfare workers, children's aid workers and housing workers about the rights and responsibilities of tenants and homeowners under the Residents' Rights Act. Building inspectors and fire inspectors have come to speak at our forums in Ottawa, Sudbury, Kirkland Lake and New Liskeard to tell homeowners about their obligations under the new law.

In conjunction with the Community Legal Education Ontario clinic, INC also developed a series of brochures educating the public about the fire code standards and as-of-right status of apartments in houses. Approximately 70,000 copies of these brochures have been distributed across Ontario. I should just point out to you that our fire safety brochure was praised by fire inspectors from several communities as being very clear and the best they'd seen on this material.

In our work across the province, we saw that the Residents' Rights Act was working. Homeowners were doing the necessary repairs and renovations to bring their units up to standard. Fire departments were inspecting units to ensure safety and fire code compliance. A monitoring survey conducted by the Ministry of Municipal Affairs and Housing indicated that from July 1994 to June 1995, 280 inspections of existing units had been completed; 119 units had been upgraded. Only 60% of municipalities participated in this survey, so the actual number of completed inspections would in fact be much greater than this.

The inspectors found that 53% of units inspected required smoke alarms, a critical lifesaving device. We

anticipate that more and more units will come up to standard as the July 14, 1996, compliance date approaches. In addition, statistics from the office of the fire marshal indicate that prior to the passage of Bill 120 in July 1994, seven fire fatalities had occurred in houses containing two apartments that year. Since the passage of the law until the end of December 1995, there was only one fire fatality in a house containing two apartments. We can say without hesitation that the Residents' Rights Act promoted safety in apartments in houses.

Construction of new apartments in houses was also generated by the Residents' Rights Act. The ministry's monitoring survey indicates that from July 1994 to June 1995, 433 new apartments in houses were created. The ministry estimated the construction associated with these installations and upgrades as \$12,454,326, resulting in 205 direct and indirect person-years of employment.

Bill 20 proposes to turn back the tide on apartments in houses, to return the authority to municipalities to decide where these units can be built and what standards will apply. Many people who are unfamiliar with the history and political dynamics of this issue might ask, "Shouldn't planning decisions be made at the local level?" While this sounds reasonable, in fact the experience of the Inclusive Neighbourhoods Campaign demonstrates that there is a proactive role for the province in encouraging this form of housing through enabling legislation. The historical and vehement opposition of many cities to apartments in houses is well known.

Over 30 municipalities have launched a charter challenge opposing the apartments in houses provisions of Bill 120. This case was spearheaded by the city of London and includes such municipalities as Ottawa, Sarnia, Owen Sound, Waterloo, Oshawa, Thunder Bay and Windsor, as well as many other municipalities. There is little doubt that some cities will use these new powers to prevent tenants from living in certain residential areas and prevent homeowners from exercising free enterprise to rent out an apartment in their own home. If Bill 20 is passed, apartments in houses will again be subject to the political whims of municipal governments, which might again choose to create single-family-home enclaves.

The municipalities have chosen in the past to listen to the NIMBY concerns of neighbours, which many studies document, including the Lampert report commissioned by this government. As aptly stated at the inquiry by Canadian Pensioners Concerned:

"Apartments in houses are illegal, because in our view, local governments have pandered to the demands of middle-class homeowners who don't want 'those' people living in their neighbourhoods. 'Those people' are some of us, our children, our grandchildren...our friends, our neighbours, old Canadians or new, singles or families, the employed or unemployed, students."

While INC is pleased that Bill 20 grandfathers the existing 100,000 units, my organization is very concerned about the confusion that Bill 20 will create for the public. Bill 20 will produce three classes of apartments in houses: There will be the so-called Bill 120 grandfathered apartments, which will be governed by the Bill 120 planning standards and the fire code; then there will be the post-November 16, 1995, apartments which will have

different planning and zoning standards and will be governed by the building code; then there will be the illegal apartments in houses, apartments in houses built without building permits in areas that will now be zoned again for single-family homes.

We know that people will continue to build these apartments because homeowners and tenants need them. I'm sure that other presenters have also told you about their benefits around promoting housing intensification and preventing urban sprawl. However, Bill 20 will discourage homeowners and tenants from coming forward, because they will not know whether or not their unit is legal. The lack of common standards across the province will result in this form of housing going underground again. We can expect that there will be illegal building and again apartments which are unregulated and therefore unsafe. Once again there will be fire deaths in unsafe, illegal units.

Homeowners will be caught in a legal maze as municipalities require them to provide evidence about when their apartment was built to determine its legality. In January, I made a presentation to about 30 homeowners in Ottawa about apartments in houses. When I described to them the status of apartments in houses under Bill 120 and then outlined the proposed changes under Bill 20, I was met with looks of confusion and dismay. They asked, "How will I know if my apartment is legal?" This is a question which homeowners and tenants will constantly be asking if Bill 20 is passed.

Tenants will once again be prohibited from living in certain neighbourhoods because of restrictive zoning bylaws. For the more than half a million tenants who rely on apartments in houses, their tenure and rights will be uncertain. Once again tenants will risk losing their housing if they attempt to have their unit inspected by a municipal property inspector.

Because of the confusion of standards and the restrictive zoning bylaws which Bill 20 will lead to, this proposed law will limit the creation of new apartments in houses just at a time when vacancy rates are plummeting and affordable housing is becoming more and more scarce. The vacancy rate for the Toronto CMA was 0.8% in October 1995. Furthermore, the private rental starts for this area for January to October 1995 were only 14 units. At the same time, this government has cut back 385 social housing projects across Ontario.

The importance of accessory apartments meeting this critical need for affordable housing cannot be underestimated. Indeed, Greg Lampert, in his report commissioned by the present provincial government entitled *The Challenge of Encouraging Investment in New Rental Housing in Ontario*, points to the contribution apartments in houses can make to the supply of housing. I won't read his quote because I think it was referred to earlier on and you're welcome to read it. Basically, it's pointing out that apartments in houses are a low-rent, low-cost addition to the rental stock which doesn't require any infusion of public expenditure.

The Minister of Municipal Affairs and Housing has emphasized his commitment to removing barriers so as to encourage the private sector to build more rental housing. Indeed, one of the four principles of his tenant protection

program is greater housing choices through increased supply. Why then is this government introducing legislation which will result in more red tape and obstacles which will discourage the private sector from creating accessory apartments? Surely the role of the provincial government should be to enable the growth of this form of housing rather than stifle it.

Since the introduction of Bill 20, some municipalities have started to refuse to issue building permits to homeowners wishing to instal an apartment in their house. We have heard about homeowners who are now being told they won't be able to instal an apartment because they will be illegal again.

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I would like to conclude by addressing two final issues: the registration schemes and the retroactivity of this legislation.

Bill 20 gives municipalities the right to establish registration systems for apartments in houses. While this sounds good in theory—INC has always advocated that units be safe and inspected—INC is concerned that municipalities hostile to apartments in houses will use registration schemes to crack down on these apartments. Mandatory registration will place even further demands on the already overburdened building and property standards departments of municipalities.

Any tenant who has experienced delays in getting a municipal inspector to inspect their apartment knows just how few municipal inspectors there are. Why not put resources into existing inspection departments rather than create a new bureaucracy for apartments in houses? Also, registration systems will create more red tape which will discourage homeowners from renting apartments.

In fact, mandatory registration schemes seem contrary to the spirit of the other sections of Bill 20 which focus on getting rid of red tape and restrictive regulations. Furthermore, registration schemes seem contrary to the general philosophy of the current provincial government which promotes reducing government bureaucracy and cutting administration costs.

While some municipalities have argued that they need registries to enforce safety standards, INC would argue that there are already processes to ensure units come up to standard. Any homeowner wishing to instal a new apartment must apply for a building permit and their unit must be inspected to ensure that safety and building standards are met. Existing units are being inspected by the fire department to ensure compliance with fire code standards.

It is our position that public registries are redundant and an unnecessary use of taxpayers' dollars. In addition, public registries might be used by municipalities to close units down for minor zoning infractions like parking. An inspection process for apartments in houses which responds to complaints from tenants is more consistent with the inspection processes and procedures currently in place for all other rental units.

The final issue I would like to address briefly is the issue of the legislation being retroactive. Many homeowners have indicated to us that they believe the grandfathering clause should be extended for units up until the date of proclamation. Many homeowners and developers

planning to instal an apartment in a house or in the process of doing so were caught by the introduction of Bill 20 as they discovered that their municipality would no longer issue building permits for the construction of accessory units.

In conclusion, it is the position of the Inclusive Neighbourhoods Campaign that the apartments-in-houses provisions of Bill 20 will choke the supply of affordable housing, create more red tape and bureaucracy and stifle economic activity in the building and development industry in the area of accessory apartments. In addition, it will create confusion for tenants and homeowners and will result in unsafe, unregulated units being built.

The Chair: Thank you, Ms Buncel. You obviously practised: 25 minutes exactly to the second. Thank you very much for making your presentation before us today. Oh that the three parties could be that timely.

GREY ASSOCIATION FOR BETTER PLANNING

The Chair: Our next presentation today is the Grey Association for Better Planning.

Ms Churley: More friends of yours, Bill.

The Chair: Friends of Bill Murdoch.

Mr Peter Ferguson: My name is Peter Ferguson. I'm president of the Grey Association for Better Planning. I'm glad to note that Bill Murdoch, our local member, is on the committee, and I think I recognize a few familiar faces from the omnibus committee meetings. I hope you won't find our information approach boring if you're one of our friends or acquaintances.

I'm going to go through the handout you've been given, because that's what we want to say, and presumably we'll get on to questions afterwards.

Oh, I should say I hope the opposition members won't mind if I seem to direct my comments towards the government, because they're the people we're trying to convince.

Mr Gerretsen: You can speak to them all you want.

Mr Ferguson: Thanks. I'm sure you'll have something to say about it, though.

The Grey Association for Better Planning has 300 members across Grey county, represented by a board comprising members from each township in the county. We came together in 1990 to ensure adherence to the county's official plan and provincial planning policies. Currently, we're working at community development, Grey's new official plan and planning policy at the provincial level, our reason for being here today.

We believe that planning is the fundamental activity of a democratic society, determining together how we can live together without hurting one another. We also believe that planning has four primary facets: firstly, active community involvement in establishing planning objectives; secondly, establishment of clear, strong planning rules; thirdly, consistent and fair enforcement of the agreed-upon rules; and then fourthly, regular reassessment and revision of those rules.

We do not believe, as some would think, that planning should just be a matter of preserving the environment. Rather, we believe that we must decide together how best to utilize it, how to live together in it and how to maintain it as a continuously productive asset to society.

And so today, we come before you, our local flowering of a North American phenomenon, the conservative renaissance. Reform, Republican, Progressive Conservative, across the continent there is a surge of parties similar to yours. What do they have in common? We believe our Conservative front runners believe in three primary tenets, all of which have a visceral appeal for us good old boys and good old girls up in Grey county. We're far enough from the seat of power to still have a bias towards a kind of out-on-the-edge pioneer self-reliance.

Those are: firstly, strong government leadership allied with a reduction in government interference; secondly, fiscal rectitude and economic revitalization; and thirdly, responsiveness to the grass roots and community values.

We trust government members of the committee will agree that these broad thrusts underlie their Common Sense Revolution. We come before you because we fear you risk undercutting these admirable aspirations in your proposed revisions to the Planning Act which we and countless others across the province spent much time and effort improving over the past few years. We'd like to discuss each of these aspirations and make recommendations regarding your proposed alterations to the act in the interests of ensuring that your aspirations are in fact realized.

Firstly, under government leadership and non-interference: We agree, government must show leadership while trying to reduce its intrusiveness. The best way to do this is to establish strong rules and then leave citizens and lower levels of government alone to respond to them. Planning, as you know, takes place through the municipalities which are simply administrative creatures of your provincial government. A government which allows these servant levels of administration too long a leash runs the risk of abnegating its responsibility to them and to its voters.

Our recommendations in this area are, firstly, require that municipalities follow provincial policies. Take your responsibilities as provincial regulators to heart. You're in charge. We didn't elect you to wash your hands of controlling the municipalities. The previous NDP government toyed with the idea of changing wording on policies to "have regard to," just as you're doing now. We were able to convince them at a committee meeting very similar to this one that if they were confident in their own abilities and willing to wield their legislated power, they should require municipal plans to be consistent with their policies. We have the same faith in you and expect a similar strength of will. You can make good rules. Make the municipalities and all the rest of us follow them.

Secondly, strengthen provincial policy statements. If municipalities are going to have to dance to your tune, make sure it's one that's got clear rhythm and a memorable tune. Most of the revisions you propose to the policy statements make the language ambiguous. We've sat through many meetings with municipal politicians, developers and other interest groups during the development of the present Planning Act. The one thing everybody wanted was a clear set of rules: the municipalities so they could write clear plans, the developers so they could start to invest with some assurance of eventual success, and the rest of us that we could assist both the

other groups without getting needlessly in the way. Just give us some clear, crisply stated rules so we can get the economy moving again.

Thirdly, deny planning approval to authorities with inadequate official plans. Your proposed revisions provide municipalities approval authority regardless of whether their plans are consistent with your policies. Why make the policies if you allow subject levels of government to ignore them? If your rules are good, you have the responsibility of requiring adherence to them.

Fourthly, allow ministries other than Municipal Affairs and Housing to appeal planning decisions to the Ontario Municipal Board. Municipal Affairs and Housing cannot administer all the areas of concern included in intelligent planning. Our other ministries are provincial assets in which we have made a large investment over many decades. To reject their expertise is to throw this investment away and limit the resources available in making fully considered planning decisions.

Under the rubric of economic revitalization, in developing fiscal policy for the province we must take the long view and not leap on short-term, Band-Aid solutions. We want sustained growth in this province, not just an early, convenient blip in our incomes. The "environment" in this context is not just a frill, a pretty picture out there to visit on weekends. It's our fundamental infrastructure, our necessary habitat, a precondition to effective economic development.

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Economic planning must take into account all costs, including the future cost of environmental remediation, should you, our leaders, make decisions which lead to the deterioration of this heritage infrastructure. Right now, we're in debt to international financiers. If we go wrong on maintaining our natural infrastructure, we will be putting ourselves in debt again for the eventual costs of cleanup of misguided decisions. Just look at eastern Europe. There, short-term economic planning destroyed rivers, cities and farms to the extent that the embryonic free economies are hamstrung by the massive cleanup necessary before they can even begin to approach our level of production and income.

Our recommendations in this area are:

Save wetlands, water recharge areas and other ecologically important areas. We don't want to wake up five years from now with dirty water, dying fields and choking cities and all the costs attendant on repairing those situations.

Restrict low-density, scattered development. Ensure that we won't have to blow our declining budgets in straining to provide services over huge areas of what used to be valuable farmland which can no longer contribute to our health and our income.

Finally, under grassroots community values, once we have clear rules for development, which will keep us from running up future debt, the best way to work within those rules is by making the development system locally responsive. Your government stands for a renaissance in our society, a reinvigoration of the idea of small, local groups as the fundamental building blocks of a caring society taking care of social needs through direct involvement. To carry this through, you must begin to smooth

the way for the participation of citizens and their local societies rather than throwing up barriers to it.

Three recommendations in this area:

(1) Maintain the required public meetings at all levels of the process. The only way to strengthen local organizations is to give them authority. If you shut them out of the planning and development process, the social infrastructure you're seeking to develop will wither. Municipalities, developers and even yourselves will end up spending much more time and money on rear-guard action, assuaging the demands of shut-out citizens than you would if you simply took advantage of their contributions in the beginning.

(2) Maintain public appeals to the OMB. A fundamental tenet of a party attempting a Conservative restoration is that all citizens should have equal access to the mechanisms of power. To exclude citizens from the OMB implies that your government does not trust the average citizen.

(3) Finally, maintain public meetings for the approval of housing subdivisions. To remove the capability of citizens to comment on those developments which are most likely to directly affect their lives is a further imposition on their autonomy, which flies directly in the face of any vision of government founded upon responsiveness to community values.

Together, these recommendations will go a long way towards ensuring that your Planning Act truly reflects the exciting possibilities of the Conservative revolution. Please incorporate them so that we may live in a province with strong, fair rules, a healthy economic infrastructure and a strengthened network of locally responsible community service groups. We're behind you in these aspirations. Please let us know how we can help you to achieve them.

Mr Toni Skarica (Wentworth North): Regarding public appeals to the OMB, one thing that troubles me about the current system is how complicated and expensive it is. I don't know if you're familiar with the Sydenham Mills project in Grey county?

Mr. Ferguson: Glancingly. It was before my time.

Mr Skarica: Apparently there were months of debate, a review by an environmental assessment committee and then there were unknown tentacles which ended up in four weeks' worth of hearings before the OMB. Apparently the Ministries of Environment, Natural Resources and Municipal Affairs were all there. They were represented by legal counsel, there was an appellant there, there was a proponent there, they all had lawyers, there were consultants. They debated the merits. This thing went on, apparently, for quite some time and at the end of it the development was refused. Then we heard today that there was another development that was put either there or nearby after all that time and trouble.

So my concern is, surely there's got to be some way to make development more streamlined and less expensive, because ultimately, when you have these kinds of hearings it makes development far more expensive and the average taxpayer, the average citizen, is the one who has to pay for it.

Mr Ferguson: So what's your question?

Mr Skarica: My question is, do you have idea as to how we can streamline the present system so that we don't get into these endless hearings with lawyers and consultants and the expense that's involved?

Mr Ferguson: I think the first thing you shouldn't do is eliminate public participation. You may not be enamoured of lawyers and accountants and so on.

Mr Skarica: I'm one myself and I'm not.

Mr Ferguson: It's a difficult problem. You have to either decide to have hearings or not to have them. If you're going to have them, you have to make them open to everyone. You can't say that there's one class of citizen that's approved and one class of citizen that isn't. If there are going to be hearings about these things, then you must let anyone appear. Of course, your predecessor government went to the extent of providing funding for anyone who wanted to appear and didn't feel they could bear the costs of that which, you're right, are quite high.

I guess we're looking to you folks to come up with a vision of how to permit everyone to participate while at the same time shortening time and reducing costs. I think those are two valid aspirations or intentions which we've tried to meet during the development of the past act. But the way to do it isn't to cut out one half of the population, which is what you're attempting to do right now.

Mr Skarica: Perhaps you could give me some idea as to how you could have a more streamlined process, because to me the present system is unacceptable. When you have all these ministries and lawyers and endless hearings, it's just too expensive. As you've indicated, we just can't afford it.

Ms Churley: A 30% tax cut.

Mr Skarica: Sorry?

The Chair: Just looking for a fight.

Mr Skarica: I don't know this area as well as you do, obviously, and I'm just looking to you for guidance, all right? The present system is too bulky. How can we have a more streamlined system that will still satisfy your concerns?

Mr Ferguson: That was the intention of Bill 163, and to this point of course it hasn't really been tried.

Mr Skarica: It appears not to have worked, according to this last submission.

Ms Churley: It hasn't had a chance to work.

Mr Ferguson: No, it hasn't. Until we know that it's broke, let's not fix it, is what we're saying. Until we know that the OMB in its revised form is not working, why are you cutting out citizens' participation? If you're going to cut out someone, why not cut out the proponent rather than the objector? If there are two sides to the argument, why are you removing the possibility of one side of the argument making its case?

Mr Skarica: I'm looking to you for guidance. I'm asking you the question: What kind of system could you have that's more streamlined and cheaper than the one we have now but still satisfies the concerns?

Mr Ferguson: The thrust of the majority of our recommendations is to maintain the act in its present form and give it a chance. Let's get together and try to work things out, once we find out how it is working, and then come up with revisions. As I said in the beginning, good planning is done through setting the rules, using

them, seeing how they work and then going back and looking at them. We haven't had that chance yet to see how the new act works.

The Chair: Now we move to the official opposition.

Mr Gerretsen: Oh, how I wish, Mr Chair.

The Chair: I did that just to tease you.

Mr Gerretsen: You put your finger right on it, because I'm as interested as my friend on the other side there in speeding up the process. But the one thing that this government, in this bill and in Bill 26, just hasn't been able to understand is that it's exactly the way you put it: Cutting one factor out of the equation, namely, the general public, not holding public meetings—that's not the answer; the answer is administrative. It takes too long to go through the various systems in our local town halls, in our planning departments, in our government departments. That's where the real problem lies, not in whether or not there should be a 20- or a 30-day appeal period. That's where they've got it totally wrong, as far as I'm concerned.

By the way, with this kind of document I'm sure that the government will hire you as a speechwriter, because the tone and flavour of it is I'm sure exactly what they're looking for.

But I wonder if you agree—it's the point that I've been trying to make for the last three days to the government members and to people who have been presenting here—that what they've basically done is listened to the municipalities and that the municipalities have said, "Just give us the final authority on a lot of this stuff and we'll somehow speed the process up." By doing that, they've taken appeals away from the OMB, where they should be as a final appellate body, as a final independent body, and they've also taken public meetings away in getting subdivisions approved, which to my way of thinking is absolutely absurd. Having zoning in place does not deal with the final product of what you may actually see there. I wonder if you could comment on that.

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Mr Ferguson: That was our final point, its being the most fundamental. At least give people a chance to comment on things that are happening in their own backyards. In order to answer the previous question and yours at the same time, I think you're on the right track, which is to say that if we have, shall we say, three participants in the process—the municipalities, the developers and the public interest—then the way to streamline things isn't to just simply remove the participation of one third, but rather to streamline the participation of all three.

I don't have an immediate answer for that right now, and our intention is to try and get together. That's why we're saying "achieving the Conservative renaissance." That's why he thinks it's a good speech. We want to work with you guys to try and come up with revisions that make sense. But what we're saying is, let's not eliminate the participation of people who are fundamentally concerned in the process. Let's come up with administrative ways of streamlining it together.

Mr Gerretsen: One of the suggestions that has been made in these hearings is that, in a similar way that we are starting to hear more and more about alternative dispute resolution within the court system, we introduce

a mediation process used before the hearings between, let's say, the developers, the interested citizens, the municipality. In some municipalities it's already done on an ad hoc basis and in some it's being done very effectively, I might add. Do you have any comments on that?

Mr Ferguson: That immediately raises the spectre of an additional level of process and level of bureaucracy.

Mr Gerretsen: I realize that, yes.

Mr Ferguson: But the intention should be to try and get people together in the beginning, as you say, modelled on the legal system, to say, "If it looks like we're going to have a dispute, let's get together in one room and let's try and hash this thing out," rather than getting all formal and expensive. It would be really nice to do that.

Mr Gerretsen: And to build true consensus, which is what the 42 years of Tory rule were all about.

Mr Ferguson: Or at least agreement, yes.

Mr Gerretsen: Exactly. Anyone else? No?

Mr Hampton: I want to say to you, Mr Ferguson, you've done an excellent job of exposing to the Conservative members of the committee the internal contradictions of their public statements on the one hand and their legislation on the other. It's an excellent job. I commend all members of the Conservative caucus to read this. It might help you down the road.

Mr Ferguson: That was my intention.

Mr Hampton: I wanted to ask you this. On page 2 you say, "We come before you because we fear you risk undercutting these admirable aspirations in your proposed revisions to the Planning Act which we and countless others across the province spent much time and effort improving over the past few years." I want to focus on the word "risk." If the government doesn't follow your sage advice here—I think it's very sage political advice—what do you think will be the result in terms of the planning that does occur out there and in terms of the kinds of battles that are going to occur as a result of the system that's now being proposed?

Mr Ferguson: I think the term "battle" probably hits it on the head. The problem is that as soon as you cut people out of a process, they become combative and they begin to try and make their feelings felt and you end up back in your corners—developers against people, municipalities against people, people against municipalities—which is precisely what we're trying to get away from. What we also end up doing then is hamstringing development in all of our jurisdictions.

What we want, just like we believe the Conservative government wants, is development. Up in Grey county we're dying. Our historical basis, agriculture, is falling apart. Our tourism, everybody wants to do tourism these days, but hopefully it would be of some use to us. Anybody looking at Grey county, at its history, at the legislation that's in place, at the official planning process that's in place, any person wanting to invest in that jurisdiction simply walks away. We can't get anybody to come up there and talk to us. Nobody wants to because they understand that the rules are so muddled, that the municipality and the citizens will be in fundamental disagreement because the rules are not understood. So what we're asking you to do is, set up some crystal-clear

rules so that people will start coming to our various municipalities and start investing in them because they know what to expect, rather than muddling everything up again by putting together an act that's nowhere near as good as it used to be. We all want development. That's why we talk about not being environmentalists. We don't care about the environment except in so far as it benefits people, and right now our legislative environment is not benefiting the people of Grey county, and what you're proposing to do is going to wreck it even further. So please, get it together. That's my answer.

Mr Hampton: Do you know much about OMB decision times and OMB—

Mr Ferguson: I participated in a couple of them.

Mr Hampton: This might help answer some of the questions that have been raised by some of the Conservative members. It's my understanding that in fact the time to get a decision out of the OMB has come down, and it's come down significantly over the last three and a half years. In fact the OMB has started to remove a significant backlog that existed. It's my understanding the OMB has also put in place some administrative procedures which will allow them to give decisions even faster in the future.

Mr Ferguson: I believe you're right. And we're looking to the Conservative government, as presumably a small business and big business kind of government, to have the administrative wherewithal to be able to streamline these processes, as has already begun, in order that we can get going in this province. Don't throw us more muddled rules. Give us something to work with, so that our developers can do a good job for us. That's what we're after.

The Chair: Thank you, Mr Hampton, and thank you, Mr Ferguson, for taking the time to make a presentation before us here this afternoon.

ONTARIO HOME BUILDERS' ASSOCIATION

The Chair: Our next group up is the Ontario Home Builders' Association. Good afternoon.

Mr Ian Rawlings: First of all, my friend has abandoned me. My name is Ian Rawlings; I am a past president of the Ontario Home Builders' Association. I am here today because I have been given the burden of following through on a process that I guess I started when I was president of the association in 1991 with the Sewell commission.

For those of you who are not familiar with the Ontario Home Builders' Association, we're a voluntary association of companies that are involved in all aspects of the building industry. We represent approximately 3,500 member companies located in 35 local associations around the province. I understand the time I am allotted, sir, and I will be very brief.

You have already heard from our local association from Toronto earlier this week. I understand you'll be visiting locals of Sudbury, Ottawa, Cobourg and Hamilton. I think you'll find there will be a common theme of support for Bill 20 from representatives from our local associations in those areas. In that context, I think my time is best spent in, as I said, being brief and then having some discussion.

There are a couple of points I did want to emphasize. Specifically to begin with, you'll no doubt hear that the change back to "have regard to" from "be consistent with" will weaken the policies and cause great harm to the environment and other interests. I submit to you that this is unlikely to happen. As the minister explained on Monday, those features that are protected under the current system will still be protected under the proposed system, and I agree with his view. The change that's proposed recognizes nothing but a simple fact: Responsible land use planning must address a wide range of interests. Those interests frequently compete with each other.

For example, the more you restrict development to certain areas, the more valuable that developable land becomes, and the more valuable the land gets, the more expensive the homes you build on it become. The consequences, restrictions on land and land use, compete with the need to build low-cost housing. That does not mean you ignore one or the other, it means you have to balance the interests.

How you do that, quite frankly, when you must be consistent with each and every one of the policies, with the "be consistent with" framework, was never clear to me. I am a professional planner; I've practised for 20 years; it is clear to me that you must consider them, but there is a conundrum. You're also likely to hear that the removal of the requirement for public meetings for plans of subdivision will undermine public confidence in the system. Anyone who understands the process knows that this need not be the case. The public has plenty of opportunity to learn about a plan and give comments. There is, quite frankly, a level of planning and planning detail that makes a difference to the overall community. That is handled at the official plan stage, the official plan amendment stages, and zoning bylaws. There is then a level of detail that affects only those people who will actually live or work in the area being planned. This is in the plan of subdivision stage.

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I want you to keep in mind, of course, that you do not get a subdivision if you do not have an official plan, or an official plan amendment, or a zoning bylaw. The drafters of Bill 163, in their zeal for openness and transparency, wanted the general public to be involved at all levels of detail. I submit to you, there is no reasonable justification for this.

You will also hear some groups say that prematurity should be restored as a basis for a municipality refusing to refer or for the Ontario Municipal Board dismissing appeals. The defence, I imagine, will be both articulate and impassioned, but I have to question why. Both the policies as they're proposed to be revised and the legislation provide ample safeguards to ensure that development does not outpace essential services. Why do we need yet another provision to guard against premature development? The question of whether an application is premature is a fundamental planning issue. It's not one that should be decided on the basis of *prima facie* evidence, and it is not one that should be decided without benefit of appeal.

I'd like to touch on a few things that I'd like to see changed in Bill 20. Certainly, the time frames for the

process have been shortened, and that is good. One is still too long; I'm referring to the one for review of privately initiated official plan amendments that have been adopted by council. Under Bill 20, if the region does not exempt these plans from its review—and there's no reason to believe they will exempt them—they have 90 days to make a decision. That's 60 days too long; in fact, I would go further and say it's probably 90 days too long, but I'll get to that.

If the region insists on reviewing local council decisions, then they should have applications circulated to them concurrently so that they're in a position to make a decision within a very short period of time: 30 days, not 90. But the fundamental question that's raised, of why they might insist on the duplication, is not resolved. They will have an opportunity to review and comment while the local council is studying the application. If they think the council decision was made incorrectly, they can appeal to the Ontario Municipal Board, the same as everyone else, including the province. The process of allowing regions to review decisions of local councils has one of two effects: It either duplicates the review, or it shifts consideration of issues back to the end of the process. Either outcome is incompatible with effective streamlining.

The other issue that is avoided by Bill 20 and needs to be addressed is the ability to change conditions on draft approved plans of subdivision right up to the moment the plan receives final approval. This is too much like being able to change the rules of the game while it is being played. Some limits need to be placed on this.

I'll digress from my prepared remarks and give you an anecdote, if you'd like. In my view, "draft approval" is not the appropriate terminology; today, it's a "draft refusal with conditions." If that helps you understand the point, I offer that to you.

That covers some of the key planning issues on Bill 20 that I think are important. I want to say a few words about the amendments to the Development Charges Act.

Since the act was passed in 1989, development charges have doubled and tripled in many cities and towns around Ontario. I don't want to go into the reasons why they've escalated so quickly, at least not in my prepared remarks, but I do want to remind you that the policies associated with financing growth-related infrastructure were devised during a time of unprecedented growth. The policies today are out of step with the market conditions that exist and with the conditions that are likely to exist in the foreseeable future.

The amendments proposed, in my view, lay a groundwork for a fundamental review of the Development Charges Act that is badly needed by the home building industry, badly needed by the people who want to buy or rent homes in Ontario. Thank you for your attention.

Mr Gerretsen: Well, first of all, let me tell you that I've been involved with this kind of a situation over the last 25 years, both from the municipal viewpoint, from representing developers, home builders like yourself and from representing members of the general public that may want to have some input or may even object to a particular proposal. My own relationship with the home builders in my own community has always been quite good. As a

matter of fact, I've got two plaques on the wall sort of attesting to that.

But I do take exception with your notion on public meetings with respect to subdivisions, and I realize where it's coming from. It's coming from the notion that you'd like to see the plans approved as quickly as possible, and I'm totally in favour of that. But surely you will agree with me that there is a major difference in getting the general public involved at a zoning or rezoning of a property or an official plan amendment, and having them actually see the result or what is actually being proposed for a particular area by way of a plan of subdivision. Would you not agree with me that once people actually know the layout of the particular development that's next to them, from past experience that you yourself have had, that they are much more likely to react to that either positively or negatively rather than in the abstract concept of a rezoning that takes place with respect to that property?

Mr Rawlings: I guess I would say I probably am going to disagree with you. I say that partly because my comments are made in the context of what I see to be some very significant improvements in terms of how planners—and I am a planner—plan. I think what we see before us is an opportunity to have planners perhaps do a better job of doing community design as part of the official plan process so that the fuzziness that perhaps has existed historically with those, as we used to call them, blobs and colours plans, has some better edge to it.

I believe with that context, and the fact that the process is a public process—superimposed over that is a process that identifies lot sizes and zoning and land uses, and traditionally uses things like roads as division lines between particular zones. Implicit and obvious in that statement is that there is a plan that has roads on it for that to happen. Quite frankly, once you reach the subdivision approval stage, without being glib, there's not much left than to talk about how many trees you're going to plant and where they're going to be planted on the front yard.

Mr Gerretsen: And where the park is going to be located.

Mr Rawlings: No, sir, I'm sorry. The park is zoned and it's in a zoning bylaw and it's very often identified in an official plan.

Mr Gerretsen: But not very specifically.

Mr Rawlings: I guess I go back to my early comment where I suggested to you that I see the process of planning now forcing us to define those things very concisely because they are, to a large extent, in many cases, environmentally driven—or for hazards or slopes and those things are going to be very well identified.

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Mr Gerretsen: Let's just say it's different for different for different municipalities, I guess. That's what it basically boils down to.

Would you not agree with me that the real problem with respect to development in this province is not so much in actual time periods that are set out in legislation, but rather the lengthy time periods that it takes planning departments, city councils, the OMB, the various ministry offices to actually deal with a particular application? From a development viewpoint, quite often you don't want to rock the boat, particularly if it's coming your

way, by holding them to the strict time lines in the legislation. Is that not where the real problem lies, that it takes five, six years to get a development approved in some cases where there really isn't any opposition?

Mr Rawlings: I think certainly that problem does exist. Is it the problem? Is it the entirety of the problem? I don't believe that's the case. I think there is a whole host of improvements that are being addressed by this legislation. Part of the improvement, quite frankly, is the time frames. The reality of out-on-the-ground practice very likely will be that those time frames, for the most part, are not adhered to strictly. They are there, quite frankly, as worst-case best defence, if I can describe it that way.

I think in many cases people are processing applications as best they can. Personally, I've been both a land developer and a consultant-planner for 20 years and I have been able to find instances where people might be taking longer than I wanted but there's a sincere effort being made. By the same token, I've encountered situations where people are being largely obstructionist, and at that point putting an appeal in is your best defence because at least there's closure to it and you've got the fundamental of a time frame. We now have more of them and I think that's part of the improvement to the system. I think it will be useful.

Mr Hampton: One of the things I've found confusing over the last three days—and in one of your paragraphs you get into it and you say, "The more you restrict development to certain areas, the more valuable that developable land becomes." We've had some groups come here and say: "Don't worry. There's lots of land that can be developed."

Mr Rawlings: I'm sure you have.

Mr Hampton: To do good planning, you should determine those areas that are of environmental importance or importance in terms of farm land and have those clearly identified so that people know the rules coming in, so that you don't spend a lot of time arguing about, is this environmentally sensitive or is this something that we ought to set aside for special management or is this something that is apt to be or is now important for agricultural purposes? Don't you think that's important? Doesn't that save you time in your work?

Mr Rawlings: Clearly it does. The easy instance for planners is when you have the obvious before you, which I think is the situation you were describing, where you have a community, perhaps you need to expand the urban envelope, you look around your edges and you find that on one side of your community it's prime agricultural land, you look on the other side and it's a prime mineral aggregate resource, you look at the other side and it's wetlands and groundwater recharge area, and you find on the fourth side that there's nothing of very much redeeming value. That's a pretty easy decision I would suggest to you. What isn't so easy is when you find the fourth side also has some significance to it. The consequence of being consistent with all of the policies is that you can't touch the agriculture, you can't touch the mineral aggregate, you can't touch the wetlands, and for argument's sake let's say there's a heritage resource on the fourth side—you can't touch that.

Now what do you do? You need to grow. You have families. You have businesses that want to open in your city. They want to have people live to make their widgets, work behind their cash register. You'd like them to live close to their place of work. What does one do? It's the conundrum where you've tried, looked and found that you're surrounded by significant and important competing uses for that particular piece of land. Now, how do you reconcile?

Mr Hampton: How do you reconcile that?

Mr Rawlings: When you have legislation that says you shall be consistent and respect all of those, you're stuck.

Mr Hampton: I think what people would probably say in those kinds of situations, and I'd be interested in your response, is that you are going to reach limits. Whether they're naturally imposed or, in some cases, imposed by government being cautious about the future, you're going to reach limits where there may not be any further growth spread in a given area. I happen to live in a place like that. It's surrounded on three and a half sides by water, okay? And then you move further.

But it seems to me that you're still better served if you know going in what the rules are, if you know going in that you don't spend six months, six years arguing, "Well, what about this piece of land?" Isn't that helpful to all concerned? We know what the ground rules are, so now let's look at where development can take place and let's do it speedily and efficiently and effectively and in the least costly way.

Mr Rawlings: I think what we're looking at is a model here that would allow some judgement to be exercised, and I think where judgement is necessary, one should be able to make those judgements. I firmly believe that that should be part of the process, and that it is best made at the local level. It is too simple to bring down the tablets from the mount and hand them to everybody across the province. It doesn't work. I think the easy situations will resolve themselves quite easily. The difficult situations will be the true test of the planning profession and the political leaders of the particular community. But I firmly believe that the exercise of judgement has to be part of this process.

Mr Hardeman: First of all, I'd like to deal with the issue of the public hearings for plan for subdivision. I personally have had a number of years' experience, as has Mr Gerretsen, in the municipal field dealing with applications. I've also been involved with the citizens who wanted to be involved with the application. Unfortunately, I never had the opportunity to be a land developer, or a developer of any kind, as Mr Gerretsen was.

Mr Gerretsen: Maybe you will one day, Ernie. I'm sure you will. Stick around.

Mr Hardeman: So I'll have to ask you as a representative of that group. In the local planning that I was involved with, the zoning application for a plan of subdivision was usually subsequent to a draft plan approval to deal with where the subdivision was going to be put. Is that a reasonable assumption?

Mr Rawlings: Sometimes it has occurred that way. I think there have been a number of different approaches to achieving the same end. Yes, in fact you can get draft

plan approval with a condition that the approval is subject to having zoning put into place that would implement that subdivision, so in this case you'd have the very detailed plan dealt with before you deal with the zoning. In many cases for the purpose of contracting a process, they are, as I say it, overlapped, they're run concurrently so that you would have a subdivision application moving forward together with a zoning application, so that in essence they're both before council, the region, the approval authority and the public at the same time. Those opportunities exist. They would still exist under the model before us and before the committee today.

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Mr Baird: Your 3,500 members, would they primarily be big business or small business?

Mr Rawlings: No, I would say they pretty much run the gamut of work out of a pickup truck; one mom-and-pop operation; there are some large public real estate companies; there are manufacturers of construction products; there are consultants like myself.

Mr Baird: I appreciate your comments on page 1, when you stated the need to create a balance of interests. I guess one of the key elements of this is to create such a balance between interests. In your expert opinion, what impact will this legislation have on job creation and economic growth?

Mr Rawlings: My view of the bill is that it will be a certain and measurable improvement over a process that is clearly—and I'm not subjecting one to the other; we have two, and some guys older than me will say you've had more than that. So clearly I see this as being an improved process. To the extent that it allows people to bring product on stream quicker, I see the opportunity existing to get back to work people who are waiting for projects to be approved, and in some municipalities there are projects waiting to be approved. Perhaps in our neck of the woods there are not so many of them. In Ottawa, it's a pretty tough town right now.

Mr Baird: It's a tough time.

Mr Rawlings: You betcha. But I clearly see an opportunity here for some tremendous economic stimulus to be gained from getting our industry back to work.

Mr Gerretsen: On a point of information, Mr Chairman: I think Mr Hardeman put his finger right on it, that different municipalities require different things for rezoning. In some cases, you do need a draft plan of subdivision so that people know what's happening, and in other cases, rezonings can be done with very, very little actual physical subdivision plan information. That's really the whole point. If everybody approached it the same way, there would be no problem. A lot of municipalities don't.

The Chair: Let's not undertake a debate, shall we, but thank you for your comments, Mr Gerretsen. Mr Rawlings, thank you. I appreciate your taking the time to make a presentation before us today.

PHILIP BYER

The Chair: Our next presentation will be from Professor Philip Byer, department of civil engineering, University of Toronto. Good afternoon.

Dr Philip Byer: Good afternoon and thank you for the opportunity to speak to you today about Bill 20 and the land use planning and approval process in Ontario.

I come to speak to you with three backgrounds. First, I'm a professional engineer and professor of civil engineering working in the area of project evaluation and environment planning.

Secondly, as the past chair of the Ontario Environmental Assessment Advisory Committee, I became involved in a number of cases dealing with the Planning Act. I'll return to that later in my submission.

Finally, I'm a parent who wants his children to live in a province that is healthy economically and environmentally. I want them to be able to afford their own homes. For example, I love my children but I don't want them to be living with me when they're 40 years old. I also want them to have a quality of life that requires that we protect our rich natural heritage.

This brings me to Bill 20. I am greatly concerned that passage of Bill 20 as it is will lead to a very different and worse Ontario, one where inappropriate development destroys or degrades important environmental resources such as wetlands, fisheries, rivers and forests, and where the costs of infrastructure and services to support this development place a high and unnecessary cost to our children.

This future for Ontario is not one that many would like, and none of this is necessary. I am convinced that we can have both economic growth and protection of environmentally significant features from sound land use planning.

In my submission I would like to focus on four basic and interrelated concerns about Bill 20:

(1) Weakening of provincial policy statements by going back to requiring that municipalities only "have regard" to these policies.

(2) Weakening of requirements for the contents of official plans.

(3) Delegation of important approval decisions to municipalities that may not have the understanding or incentives to protect important natural features or consider the long-term economic costs of some development.

(4) Inadequate time for consideration of official plan amendments and plans of subdivision that, one by one, can subvert the intent and vision of an approved official plan.

I will return to these later.

I'd like now to back up and explain my background and experiences that lead me to these concerns. As I mentioned, I was chair of the Ontario Environmental Assessment Advisory Committee. The committee was established in 1983 to increase public input to decisions by the Minister of the Environment on the application of the Environmental Assessment Act. I was appointed a member of the committee in 1985 and then as chair in 1986, and I continued as chair until last fall when the committee was terminated.

During the 1980s and early 1990s the minister received numerous requests that land development proposals be made subject to the Environmental Assessment Act. Many of these requests to use the EA Act were based on public concerns that the requirements under the Planning

Act were inadequate to protect the environment. In a number of these cases, the minister asked the committee to carry out public reviews. These included cases dealing with land developments on wetlands and forested areas, on the lake front, over old dump sites, and around a sensitive headwater and a recreational lake.

We also carried out public reviews in the Ganaraska watershed and in Grey county of the more general issue of the adequacy of the Planning Act to protect the environment, and finally, we carried out public reviews of a number of road, water and sewage projects tied to land development decisions. We saw the land use planning and approvals process in action, with conflicts within communities, delays in decision-making and threats to the environment.

In almost all of these land development projects, we did not believe the use of the EA Act was appropriate or necessary, but we heard significant, valid concerns about the land use planning process. This included the lack of clear and meaningful provincial policies, the cumulative effects of official plan amendments, the need for much better information on environmental resources and the economic effects of development alternatives, and the need to control site preparation prior to approvals.

These issues were addressed by the Commission on Planning and Development Reform and the subsequent changes to the Planning Act, to both streamline the process and provide better protection to the environment. Similarly, I assume we all want at least four things from the land use planning process: first, efficient review of applications and approval of development proposals that are in the long-term public interest; second, infrastructure and servicing that is economically efficient; third, protection of environmentally significant resources; and finally, meaningful public involvement in planning decisions that may affect them.

Bill 20 will probably achieve the first objective, efficient review and decision-making, but will likely fail with respect to the other three. As I stated earlier, I believe that Bill 20, as it is, will over time give us an Ontario that is much poorer in terms of environmental quality and costs to future generations.

I would now like to briefly discuss each of my four main areas of concern about Bill 20.

(1) Inadequate status of provincial policy statements: In the past, decision-making in many controversial cases could have been greatly speeded up if there had been clear, firm, provincial direction through policies under the Planning Act such as the one related to development near wetlands. Many developers have stated to me in public hearings that it's better to have clear, strict rules rather than unclear, loose ones, since the latter create uncertainties and delays in approvals, which are critical factors in development.

Proponents, municipalities, government reviewers and the public need to know the rules of the game so they do not waste their valuable time and money arguing unnecessarily over the protection of environmental features. Some things should be protected and others needn't be, and the appropriate level to make these basic decisions is not with each development proposal but through provincial or municipal policies.

I believe that environmental features can be put into three categories. First, those that are insignificant to those outside the municipality. Protection of these resources should be left to the sole discretion of the local decision-makers. Second, those that have some significance and we would like to protect, but protection must be weighed against other objectives—here provincial policies could help direct the local decision-makers but the final decision would still be left to them. This is what we would get with the policy statements under Bill 20. Finally, there are environmental resources that are of such importance that the province should protect them through meaningful policy statements. But Bill 20 does not allow the province to establish such a level of protection.

Policies to protect the environment must be different from many other types of policies such as economic ones. Economic policies can be tried, and if they don't work, then we adjust them. Unfortunately, weak environmental policies can result in the destruction of significant and sensitive features, and once lost to development, they are lost forever.

I therefore strongly urge you to amend Bill 20 to allow for two levels of environmental policies under the act: ones that give provincial direction but may be overridden, in other words, the ones that are to "have regard to"; but add those that will provide true protection, as we could get with requiring decisions "to be consistent with."

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(2) Inadequate requirements for contents of official plans: There can be a great deal of variation between contents and degree of detail in official plans for different areas. Differences are obviously necessary to reflect differences between municipalities. However, there are certain elements that are necessary to inform and direct more specific planning decisions, for example, objectives and policies to direct physical change and manage environmental impacts. Clarity of objectives and policies should help streamline decision-making. Yet Bill 20 weakens this requirement.

These are also important to help avoid unnecessary duplication with the Environmental Assessment Act. Currently planning and approval of municipal infrastructure, such as major roads and sewers, must go through the environmental assessment process, yet this approval is divorced from the development plans that such infrastructure supports. The basic decisions on such infrastructure should be made at the official plan level rather than through an environmental assessment of individual projects.

(3) Delegation of important decision-making power to municipalities: Bill 20 allows for further delegation of certain important decision-making powers to municipalities. Unfortunately, many municipalities lack the staff and expertise to properly review applications, and this will get worse with the downsizing. It will also be more difficult for municipalities to turn to expertise in the provincial government with the cutbacks.

More problematic and more difficult to deal with is the incentive that often exists for municipalities to approve developments for perceived short-term economic benefits at the expense of long-term protection of the environment and long-term costs of infrastructure and servicing.

Finally, development decisions often create environmental effects outside of the jurisdiction such as downstream in the watershed. There needs to be decision-making at the level appropriate to the extent of the environmental impacts.

(4) Inadequate time for consideration of development proposals: An official plan, if it is to mean something, must have some permanence. Official plan amendments, while often necessary, can cumulatively erode the original long-term intent of a plan. Bill 20 gives too little time for constrained municipalities and the interested local public to review such OPAs. I'm concerned that inappropriate developments will simply be approved under the threats of the deadline or of the developer going to the Ontario Municipal Board.

As you can see, these issues are interrelated and must be considered together. For example, the delegation of authority can be appropriate if there are strong, clear provincial policies to direct this authority and if there are adequate resources for reviews.

In conclusion, I believe that Bill 20 will only achieve half of its purpose. The title on the bill states that it is, "An Act to promote economic growth and protect the environment." It may, and hopefully will, promote economic growth, but it will not protect the environment. This is sad since we actually can have both. Thank you.

Ms Churley: I regret that I missed, Dr Byer, the first part of your presentation. I should tell you, first, that I now call this bill the environmental destruction bill. It's more—

Interjection.

Ms Churley: Well, actually, I think my title fits the bill, so to speak, better than the official title, from what we're hearing.

I wanted to talk to you about, and I don't know if you have any knowledge of this, consultation by this government with environmental advisory groups. I know some have been disbanded, which you personally have some experience with, but the environmental groups, citizens groups, overall, do you have any knowledge of that?

Dr Byer: I don't have any. I certainly know, through the contacts that I have, that there seems to be a closed door. I don't know of anyone who has been consulted on the bills prior to the bills being put forward. I don't know of anyone who is being consulted on legislation that will affect the environment. I could be wrong, but that's certainly my impression.

Ms Churley: I don't know if you covered it or not, but I'd like to ask you your opinion on what the government is calling the coordination role of the Minister of Municipal Affairs and Housing, as that minister being the only who can appeal to the OMB, and that the Minister of Environment and Energy and the Minister of Natural Resources will no longer have that option.

We haven't had a clear answer from the minister as to what role both these other ministries will have, and I'm still looking to get a very clear, concise answer that they will have a strong role. But right now, I fear very much, because I've been there, I've been in government, I know that there are various pressures on each minister, and there's a great fear that the ministers of Environment and Natural Resources, particularly with staff layoffs in both

ministries, are not going to have a say in that. I wonder if you have an opinion.

Dr Byer: There are cases where other ministries have appealed to the OMB or at least, let's say, their concerns have been the cause of a case going to the OMB. I can think of the Ministry of Natural Resources, for example.

I think the clout within government of one minister—these are from my experiences under the Environmental Assessment Act and the types of cases that I talked about—I think quite frankly the threat of one minister to another minister, if you want to call it a threat, that they're thinking about going to the OMB would cause quite a bit of concern and a serious or a second look at some development proposal.

I don't think, from a practical level, that one ministry actually goes and appeals over the objections of another one. That's my experience. But I'm more concerned about the public having the right, and for there to be appropriate review within ministries of development proposals, and their reviews be put on the public record.

Ms Churley: I understand, but what you just said, though, is one of my concerns. In the past, the Minister of Municipal Affairs knew that the Minister of Environment and Energy or Natural Resources could cause a lot of trouble by threatening to appeal.

Dr Byer: That's right. I think that was valuable.

Ms Churley: So there was an incentive for that minister, the Minister of Municipal Affairs, to sit down and really listen and try to work out the differences and make some compromises. But now, without that ability, we're not assured that they will come in and, say, give information to the public, be able to express publicly even if they disagree with where the development is going. That is my concern. I have no problem with trying to coordinate and streamlining it, but I have a serious concern about those two ministries being shut out and not being able to express concerns about environmental problems.

Mrs Fisher: Professor, I'm from a rural riding, and just so you know my background a little bit, I have been a 15-year member of a conservation authority board of directors. I also was on a planning committee of county council. I do believe there needs to be a very firm balance between fairness and opportunities for all Ontarians with respect to good planning and not knee-jerk reaction to planning. So I concur that we should be looking ahead to the future and taking into consideration as well the environmental aspects.

However, I would also argue that the environment under this act will remain protected, with the same regulations for the implications resulting around ANSIs or wetlands or setbacks on Great Lake waterways, 15-metre to 45-metre setbacks. I could tell you, in my riding, for example, I have 40 ANSIs. We have the Niagara Escarpment. We have multiple provincial parks, national park designation, two native reserves and the 15-metre to 45-metre setback all along the lakeshore, and I'm surrounded by water on three sides.

So if you were living in my community, knowing that that is there now, with the regulations and laws that were in place for the last number of governments and number of years, I would think that our government at a local

level has acted very responsibly to take into consideration, given the list I've just read you, environmental concerns in the Bruce. Would you agree with that?

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Dr Byer: I don't know the planning in the Bruce, but if it's as you describe it, that's wonderful. I think the purpose of the legislation would be to make sure that other jurisdictions provide the same level of environmental protection for significant resources. There are areas that I've seen where that has not happened and the Planning Act did not provide that protection.

Mrs Fisher: Well, the Planning Act is the same for all areas, in terms of it may differ in how it's implemented; there's no question. We, as a government, believe the local level government should decide the planning aspects and the environmental protection of all areas in Ontario. You've raised a point in your brief with regard to two levels of approvals as they relate to environmental issues. I've just given an example where the acts are the same for everybody relating to many of the environmental issues in Ontario, and it seems to have worked. Why do you think it can't work?

Dr Byer: I think you've missed something. The act provides minimum requirements. If a municipality or the planning jurisdiction, for example, in Bruce wants to provide a higher level of environmental protection or a higher level of planning, that's great, that's fine. But where the crunch comes, where the conflicts come are where municipalities are either just at the edge of the Planning Act requirements or, quite frankly, subverting them, and I've seen it. You can have lawyers reading it, but I've seen cases, because there's so much subverting the intent, the spirit, even if they might be meeting the legal requirements.

With respect to the local decision-making, I agree with you. Most decisions should remain at the local level. But there are environmental resources and features that go way beyond that, so that if we leave everything to the local level, we will see in 10, 20, 30 years that many of the things we cherish now will not be there.

Mrs Fisher: My question in closing would be, would it not be better then to identify those and put those into the act under the decision-making capacity of the local level, as opposed to creating a two-tiered bureaucracy in terms of an environmental issue at this level, or environmental issue at this level has two ways of process. I prefer a local level decision-making capacity, but I prefer also to protect the environment. Maybe what we need to be doing here is looking at those areas that you might be able to identify of provincial decision-making necessity, as opposed to those local, and include those in the act as opposed to two-tiered decision-making.

Dr Byer: Let me give you an example of wetlands. We've been fairly clear. It's been fairly, I won't say easy but at least it's been done, to rate wetlands on a scale, and it's served us I think quite well, where we have insignificant wetlands, regionally significant wetlands and provincially significant wetlands. We can do that for a lot of other environmental features. It's difficult, but I think we have to try.

If we can do that, let's take the ones that are not significant and leave it up to the local municipality;

regionally significant can be at a different level of decision-making and approval; but provincially significant, there are aspects of that also that need strong provincial protection. And there are environmental effects that go beyond, for example, downstream of a municipality. We cannot leave all decisions up to municipalities when the effects go beyond them. If one municipality is upstream and wants to do development, but the effects of that development through erosion into the stream and so on create problems downstream, they should not have sole decision-making authority.

Mr Gerretsen: To just give my friends an indication as to how it's affecting my area, which is eastern Ontario, the map has been significantly changed so that much of eastern Ontario is eliminated entirely from the area where wetlands are protected. Somebody made that decision. I know my conservation authority is concerned about that. Other people in the area are concerned about that. It just happened in a new statement. Nobody knows where it came from. You just try to explain that one to me.

If I could take up your time up for just a moment, because it leads into a question to you, sir, we've just had a perfect indication how rezoning applications are dealt with in different parts of the province in different ways. In some areas, you can only get a rezoning if, in effect, you give the whole plan of subdivision in detail etc. In other areas of Ontario, and I know this for a fact, you can get rezonings with very little detail as to what you actually want to put on the land, and the first time that people actually see it is when a subdivision proposal comes forward. That is a fact.

We can get political about that and argue about that, but I'm telling you that is a fact. In that particular case where somebody can get a rezoning in the abstract, if I can put it that way, if you're taking the public meeting concept away from when the subdivision comes forward, it means the local community will have absolutely no input and won't know what's going to go on that site until after it's a fait accompli. That is a fact—not a political statement, but a fact.

I wonder if you have any comment on that kind of situation that can develop under the new rules, because the methods in which rezonings and OP amendments are being handled by the various councils throughout this province are not the same. Do you have any comments on that, sir?

Dr Byer: Not at the direct level of the rezonings, for example. I have seen quite a bit of variation in terms of the approval process and, most importantly, the level of information that different municipalities require up front. That's why I think it's important to have minimum standards in effect in official plans, that all official plans be required to have a certain process or information for rezonings.

But I want to get to something that has come up, I think, through your question and through Ms Churley's question, which has to do with the role of ministries.

With the obvious downsizing of government, there is going to be less—it was difficult enough before to get government ministries to do reviews of zoning applications or official plan amendments. It's probably going to be impossible now, certainly not in the time lines that are available. If we look at the downsizing and the tight time frames, basically it won't happen.

Where does that leave us? It leaves us with the public needing to see this information as early as possible, and that's a heck of a burden on us.

Mr Gerretsen: I wonder if you could comment on this, sir. The one-window approach is at first sight a recommended thing from my viewpoint, so that people will know what ministry to go to to get the necessary information. However, it is extremely important in my view that if the other ministries are still going to play an active role in this, a memorandum of understanding be established between the various ministries, a protocol memorandum as to how the concerns of the other ministries will in effect be brought forward.

Otherwise, a lot of the concerns are going to be finessed if there's only one view that comes out of the ministry; for example, if the Ministry of Environment has a concern that it really feels strongly about, that there will be an understanding that the Minister of Municipal Affairs, who will be the only agency that will be allowed to make the official appeal, will do so and that it will not be something that will be internally negotiated without any input from the developer, from the municipality, or indeed from the general public. Do you share that concern?

Dr Byer: I share the basic concern of where the Ministry of Municipal Affairs or the municipalities are going to get the information they need about the economic and environmental effects of applications. I honestly don't know where it's going to come from. Municipalities are not going to have the staff to be able to do this.

If on the one hand you want economic growth, if there's an increase in development applications—right now maybe they can handle it because there aren't many, but I can just see everything crashing down so that there are going to be municipalities that will be approving these applications because they can't do anything other than that, they don't have the studies to show not to approve them. That's basically what I think is going to happen.

The Chair: Thank you, Professor. We appreciate your making a presentation before us here today.

I'm sorry, committee, I should have noted that before the professor on your agenda was the North York Inter-agency and Community Council. They cancelled earlier this afternoon. The clerk has just received a phone call that our next group, from the CAW, has also cancelled. Sorry for the lack of notice, but that would appear to conclude the agenda items for today. The committee stands adjourned until 9 o'clock tomorrow morning.

The committee adjourned at 1640.

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

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Vice-Chair / Vice-Président: Fisher, Barb (Bruce PC)

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Tascona, Joseph (Simcoe Centre / -Centre PC)

**In attendance / présents*

Substitutions present / Membres remplaçants présents:

Conway, Sean (Renfrew North / -Nord L) for Mr Lalonde

Gerretsen, John (Kingston and The Islands / Kingston et Les Îles L) for Mr Duncan

Hampton, Howard (Rainy River ND) for Mr Christopherson

Hardeman, Ernie (Oxford PC) for Mr Carroll

Skarica, Tony (Wentworth North / -Nord PC) for Mr Tascona

Smith, Bruce (Middlesex PC) for Mr Chudleigh

Also taking part / Autres participants et participantes:

Sheehan, Frank (Lincoln PC)

Turnbull, David (York Mills PC)

Clerk / Greffier: Arnott, Douglas

Staff / Personnel: McLellan, Ray, research officer, Legislative Research Service

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ISSN 1180-4378

Legislative Assembly of Ontario

First Session, 36th Parliament

Assemblée législative de l'Ontario

Première session, 36^e législature

Official Report of Debates (Hansard)

Thursday 15 February 1996

Journal des débats (Hansard)

Jeudi 15 février 1996

**Standing committee on
resources development**

**Comité permanent du
développement des ressources**

**Land Use Planning
and Protection Act, 1995**

**Loi de 1995 sur la protection
et l'aménagement du territoire**

Chair: Steve Gilchrist
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
RESOURCES DEVELOPMENTCOMITÉ PERMANENT DU
DÉVELOPPEMENT DES RESSOURCES

Thursday 15 February 1996

Jeudi 15 février 1996

*The committee met at 0901 in committee room 2.*LAND USE PLANNING
AND PROTECTION ACT, 1995LOI DE 1995 SUR LA PROTECTION
ET L'AMÉNAGEMENT DU TERRITOIRE

Consideration of Bill 20, An Act to promote economic growth and protect the environment by streamlining the land use planning and development system through amendments related to planning, development, municipal and heritage matters / *Projet de loi 20, Loi visant à promouvoir la croissance économique et à protéger l'environnement en rationalisant le système d'aménagement et de mise en valeur du territoire au moyen de modifications touchant des questions relatives à l'aménagement, la mise en valeur, les municipalités et le patrimoine.*

URBAN DEVELOPMENT INSTITUTE/ONTARIO

The Vice-Chair (Mrs Barbara Fisher): Good morning, everybody, and welcome to the resources development committee considering the new Bill 20. Only a minute behind this morning, but with a quorum here we can start. I welcome you to our hearing process. Just so we understand the conditions or the terms on which we can work here, each of the presenters will be allocated a 25-minute period to be used as you see fit. If you would like question-and-answer at the end, make sure to leave time for that. That time will be divided evenly to give each of the parties an opportunity to ask questions. If you'd like to introduce yourselves, please.

Mr Jack Winberg: Thank you, Madam Chair and members of the committee. My name is Jack Winberg and I am the immediate past chair of the Urban Development Institute. To my left is Lucy Stocco, the current chair of the board of directors of the Urban Development Institute of Ontario.

By way of background, I'd like to thank you on behalf of the Urban Development Institute and its several hundred members, who comprise land owners, developers, planners, engineers, architects, financial institutions and the many other professionals involved in the land development process, for the opportunity of appearing before you today to speak on Bill 20.

Unlike many of the other speakers you're going to hear from or other delegations you're going to hear from, I'd like to just point out to you that the land developer or land owner is the only one who sees the process right through from the beginning of the idea to the purchase of the land to the construction and the finishing of the building and the commencement of its use. I believe we

have an interest in and a perspective on the development process unlike anybody else. Where others come in for certain aspects of it and then leave, we as the development industry see the process through from beginning to end.

I'd like to begin by saying to this committee that the development industry applauds the initiatives that have been indicated and taken by this government, the current government, as evidenced by the contents of Bill 20. We see it as very much an effort to bring back a common-sense approach to planning and, more important, a sense of balance to the planning process, that is, where all matters, be they social, be they environmental, be they economic and indeed be they political, can be considered in accordance with proper planning principles, with common sense and with a view to the needs of the community that's involved for appropriate and proper planning decisions to be made.

We have provided you with a very detailed brief that sets out our many comments on the legislation, many of them positive, many of them constructively critical, we hope. I hope that you'll be grateful when I tell you that I'm not going to take you through that brief page by page. The comments are there, and some of them are very detailed beyond the scope of our submission.

Perhaps I could simply indicate to you at the outset that we are very pleased that the government has seen fit to propose in the legislation the reversion back to "have regard to" a scheme for the application of provincial policy statements. This industry was very concerned that the "shall be consistent with" format that was proposed in the previous legislation and the current legislation was simply too constraining on the councils, too disempowering, if I can use that word, of their ability and the development community's ability to make the right decision on the right set of facts—as I've indicated, the sense of balance in the process that is required.

We think that the "have regard to" format tells people that you're to throw into the hopper all the material and important considerations and make the best decision that you have to and that you can on the facts before you. We support that initiative very strongly; it's one that is tried, it is one that is true, and although there may be differences of opinion in terms of degree, I believe when you look out at the province of Ontario, it has lived under a regime of "have regard to" since 1946. We've done pretty well, and I ask you to reinstate that. We encourage the reinstatement of that approach to planning.

We are also very pleased with and supportive of the initiatives to add further and to shorten the time frames under the legislation. Anything that can be done to ensure that there is a structure within the process that allows

good planning to take place in an orderly way without unlimited and never-ending time zones is something we think will help and will help cut out a lot of the unnecessary delays in the process.

We are also quite supportive of the concept of the direct appeal to the municipal board and the one-window approach that the legislation entails. We believe by cutting out all the intermediary steps to getting to the board and by allowing the board to be invoked if it has to be that when one considers that the planning process is essentially a process which allows the competing demands on society through the planning process to be resolved, the direct right of appeal will assist in an early resolution of those concerns and those debates and we can get time running where people have to make decisions and make the compromises necessary in this society. So we see the direct right of appeal as being very important.

We also see the removal of the prematurity concept that was in Bill 163 as a very important balancing factor for the purposes of ensuring that land owners will have the right to get to the board. There's one area that our brief does discuss in some length, which is that under Bill 163 there's concern over the way in which you get time running. There's a phrase "prescribed information and material." In 163, we thought we had that pretty clear in terms of you filed the application, essentially giving the basic information regarding your application, and that was sufficient to start the time. There couldn't be any doubt about when time started, because if there was, then people would be arguing and finding opportunities for delaying things moving ahead. The rules of the game should be clear and clearly set out. We must know when time starts.

That's one change we've asked to be made in terms of the detail. We think that "prescribed information and material" ought to be the subject of a specific definition in the bill so that you don't find that some municipalities that want to delay people or might find reason to want to delay a particular application come up with new ideas for information, asking for reports on the cumulative impact of all development on Ontario, which is really quite conceivable, before time would start to run, that those problems do not occur, as they do and have often shown up in the Bill 163 process, where we thought that that might not have happened.

One of the other consequences of the direct right of appeal, however, is that, certainly on a transitional basis, the Ontario Municipal Board must have the resources available to catch and to process the applications. We're going to be substantially taking the regional governments and in particular the Ministry of Municipal Affairs out of the process in terms of their ability to assist in the resolution of problems and the clarifying of issues for the board's determination and the board's decision.

0910

Once this legislation comes into place, we all must be sure that the Ontario Municipal Board is properly resourced to help, not necessarily simply in the hearing aspect of it but in the pre-hearing aspect, in the identifying of issues. For example, if a secondary plan was coming down, under the legislation the whole plan would

have to be appealed. There are opportunities for people to say, "I'm only appealing one particular part or another"; however, history has told us that people tend to always over-refer, and that affects and stops development that's really not a subject of contention. The Ontario Municipal Board will have to have pre-hearing procedures available to limit and define the scope of appeals and to permit development that's not under contention or appeal to proceed, and at the same time set up the hearing in proper form for the serious issues to be discussed and debated under the appeal.

Those are the few areas of concern that we have and the areas that we substantially support. There are still two or three issues in the legislation that we have substantial concerns about, and I want to just make the comment that with respect to all the technical things that we have said and submitted in our brief, we're very complimentary of the government and its staff. They pulled this together very quickly and they've done, for the most part, a very, very good job, but obviously there are a few issues that we think need a bit more thought.

The first one relates to property rights and the sections of the zoning powers under section 34 which provide for the pre-zoning of lands that might be of significant environmental impact. It has always been the law of this province that if land is developable but it has some other higher social purpose as a park or as an environmentally sensitive zone, that's a public interest and it's not something to be financed by the private sector. If there's an area that is environmentally sensitive or that is a piece of land that would otherwise be developable but for good reasons the councils decide they want it to remain in public use, the proper way to do it is to expropriate it, pay for it and keep that sense of balance that's involved.

Those provisions in subsections 34(3.1), (3.2) and (3.3) that allow for the pre-zoning of lands that are of environmental significance take the balance out of the process. If someone buys land that is ostensibly developable but, for reasons of the greater public interest—they should be taken and paid for. So we ask that those sections be deleted. There are still ample powers for those lands to be acquired and protected, and we ask that they be left that way.

We are also concerned about the opportunity under section 41 for, on site plan approval, lands for a transit right of way to be given for free. The problem we have with that is very simply that historically a developer has never had a concern about giving up half a road-widening or a lane or a lane and a half, because that road that runs by his development services his development and he gets the benefit of it and it's proper for that developer to pay or make a contribution towards the construction of that road.

A transit way is something entirely different. An LRT line may come right through somebody's property. It may go through the middle of their property; it may take a substantial hunk off the front, but the stop is a mile one way and half a mile the other and there's no real immediate benefit to the land. Historically transit ways have always been expropriated with proper consideration to the impact that it has on the value of the land that's taken. Where we have, in many cases, no direct connection

between the land and the benefit of the right of way except in a greater public purpose sense, we say that that's not an appropriate power for either regions or local municipalities to have in the site plan process.

The final area that we are quite concerned about in terms of Bill 20 is minor variances. We believe that the intentions with respect to changing around the processing of minor variance applications that are set forth in the act are good, but we believe that the process pre-163 and the process even under 163 is the process that ought to be adopted for the province of Ontario in terms of dealing with minor variances.

Minor variances are intended, and they have operated for the most part—and no one will suggest there haven't been abuses in the past—to solve the minor, the small problems that relate to land and land development. There has to be an easy and a quick way that's not encumbered by politics, that's not encumbered by long staff reports and circulations and the other things that the planning system may impose. It has to be there. It's a relief valve.

Let me just give you a very quick example. I've got a development that's ongoing right now where it's been a year and a half in the process: 41 affordable town houses on a corner lot. Actually, last night was the final day for the passing of the zoning bylaw—the 20-day period expired—and as of this morning I've got a final approved bylaw on my site.

Two weeks ago, after the bylaw was passed and before it was final, the regional municipality decided they wanted to cut through an intersection and line up a road. What that's going to do is that's going to make one corner of my development about 18 inches too close to the new property line after I have to give the road widening to the regional municipality. That has to be fixed. Now, I've got a site plan, I've got my marketing materials. I may even have a new neighbour that's just moved into the neighbourhood after the year and half of processing, and he says: "You know what, this guy, he's desperate, he can't afford a delay now. He's got all his money tied up in marketing and he's getting ready to build. I think I'm going to object because I don't like the colour of the brick and I don't like the style and it blocks my sunlight," and all of the usual stuff.

The politics have changed as well on the council that I'm dealing with, so I don't know if there are many people who have the same views. I go to the committee of adjustment today. If the committee sees the wisdom of making that small variance after all these years, and in fact it's even caused by the regional government, and I get turned down because of the politics, I'm off to the board and I guarantee you that in a case like this in two and a half or three months it'll be solved, it'll be fixed, because the board will deal with that on a motion. It's a summary matter, it's a small matter. It's pretty clear that nothing's changing except a property line for a road widening.

Under the new system, if I ran into the political problem, I'd be at the committee, probably at the council. If the politics were against me I'd be a year and a half rezoning that property again. That's just not right and that's just not fair. That is the kind of example of a case that you need to have minor variance approvals for.

That's just my today's example. We have these examples every day throughout the province of Ontario where the minor variance system helps solve the problems and helps get building permits issued, jobs created and people living and paying taxes in municipalities.

Don't mess with it, I urge you in the strongest of terms. We need it, and what you're proposing is going to remove one of the most effective relief valves that the planning process has.

There are two other matters that we refer to in our brief. One of them relates to the farm assessment process in the sense that we have asked that the government consider a new amendment to Bill 20 that will allow land that although may be zoned for future development but currently in agricultural production remain taxed as if it were agricultural land and not taxed, as some recent assessment board cases have suggested, as residential land.

We're here as an industry and we say every day in terms of the planning for the future that we will leave land in agricultural production as long as it is not needed for housing. We're not anxious to bring land on any bit before. We're not anxious to see land leapfrogged where one owner says, "I can't afford those taxes; I'm going to put in my roads and I'm going to try to subdivide," any earlier than they have to or any earlier than is the most appropriate for that community. Land owners should not be penalized for having taken their land through the process and having devoted it to agricultural use as well while they're waiting for it to be ready, and we ask that this committee support, each and every party on this committee support, that amendment that allows lands to be taxed as long as they're being used for agriculture at an agricultural rate and not as an urban rate.

0920

The other comments that we've made: I guess the last one relates to transition and we ask that March 28, 1995, be the date for transition. In other words, any application that was made under either the pre-163 or during 163, that following Bill 20 they have regard to scheme and they have regard to format applied to everything so that we don't end up with a number of double standards.

Madam Chair, members of the committee, we are anxious to see this bill processed. We're anxious to see the benefits of this bill in terms of restoring some confidence and some certainty to this industry and very importantly to the people who supply the capital to this industry, which is so important. We ask that this bill be passed, that it be passed quickly. We ask that the amendments that we've suggested be taken and certainly taken in the constructively critical light that they're given. In other words, we want to deliver more of that certainty, we want to deliver more of that confidence and we want to deliver a process that will be able to bring about good development in the province of Ontario and to keep the economic engine of Ontario and of Canada humming right along.

So I thank you very much for your time.

The Vice-Chair: Thank you very much, Mr Winberg. We have about six minutes left, or just under six actually. So if we could limit our questions to two minutes per party, starting with the opposition party.

Mr John Gerretsen (Kingston and The Islands): Thank you for your brief. I must admit that I have some difficulty with the public transit right-of-way proposal that you have because surely if a right of way goes through a piece of land, even though there may not be a subway stop right in that particular area, that land is going to be worth more than if it were a couple of miles away from there, as far as the development is concerned.

Mr Winberg: That's not the case.

Mr Gerretsen: No?

Mr Winberg: The transit way might go right through the middle of the land. It may make the land undevelopable.

Mr Gerretsen: Oh, it depends on how much it is. I agree with that.

Mr Winberg: But that's not what the right says. The act says that you give up whatever they want for transit rights of way.

Mr Gerretsen: Yes, but you wouldn't develop too small a piece of land if you were going to lose 90% of it as the result of a public transit right of way.

Mr Winberg: But that's what the act says.

Mr Gerretsen: Well, I know, but you would—

Mr Winberg: Sir, with the greatest of respect, we're talking about the exercise of legislative power here, and the proposal drafts a power that would readily permit that result. That is our concern.

Mr Gerretsen: I completely concur with you as far as the minor variances to the OMB are concerned. You raised another issue relating to the OMB and the staffing needs etc. It raises sort of a general issue with me, and that simply is this: From your perspective, are there real problems with respect to the whole planning process and the time it takes, the actual time limits in the act, or the actual lengths of time that planning staff, councils, ministry staff, various ministries, take to deal with an application? It's always been my impression that this is where the real problems lie.

Mr Winberg: Yes. I think this industry from the beginning has said that to achieve good planning and a good planning process in Ontario you didn't have to change the act at all, that it's the actors, not the act; it's attitude. There are too many incentives in the process, be these bureaucratic, be these human, not to do things, not to make decisions, not to see things happen. I think it's a question of attitude, that you want to have those involved in the processing of the application encouraged in promoting good development and moving along their work. So yes, I think most of the time comes from going from person to person as opposed to whether the act said 65 days or 90 days. That's not the material point.

The Vice-Chair: Thank you. We're almost a minute over already.

Ms Marilyn Churley (Riverdale): I'm sorry I missed the beginning of your presentation, but I do have it in front of me. I think if we had lots of time we'd have an interesting discussion because I take issue with a lot of your suggestions and assumptions, in some cases, about Bill 163. However, because we don't have the time, I would like to ask you a question around the streamlining in terms of the Ministry of Municipal Affairs and Housing now being the so-called coordinator, and the only ministry which can appeal to the OMB. That sounds

good. I support streamlining, and certainly I know there can be delays which have different ministries taking different positions. However, and I think you say that you're concerned about protection of the environment, I'm wondering if you have any suggestions as to how the minister can assure the public, and developers, because I think in the long run it's important to you too, that you have all the information about possible environmental problems—how the minister, given that he is the only one who can appeal, what kind of system can we put in place to assure the public that all input is available on environmental matters before a decision not to appeal is made by the Minister of Municipal Affairs?

Mr Winberg: I think what underlies your question, is the—as an industry we have a lot more confidence in the people, the good common sense of the people who administer applications, to know they're in a river valley, to know they're in an area of sensitivity, to know they're in an area of environmental concern, and to deal with it. You cannot legislate, and there's nothing you're going to be able to do to legislate a good result. You've got good people, you give them the right tools, the right ability, to make the assessments that have to be made—they'll be made. As a developer I can assure you that 163, no 163; policy statements, no policy statements, we are as concerned and that we are required by the people who are reviewing our applications to demonstrate that all of the work that need be done to preserve and protect the legitimate concerns of the environment are done.

Ms Churley: So you think there doesn't need to be input from—

The Vice-Chair: Excuse me, Ms Churley, I don't mean to interrupt, but we have expired time and we were able to get one question. I'm sorry about that.

Mr Ernie Hardeman (Oxford): Good morning, Mr Winberg. Just a couple of points: the issue of the transit rights of way, giving the lower-tier municipalities the authority to take property, the site plan—that authority already exists for the upper tier. Do you see a great difference or a need to say that the lower tier should not be able to do that, so in fact the upper tier would do that on behalf of the lower tier?

Mr Winberg: We're asking that you delete the right of the upper tier as well. We're saying please don't extend it, take it away from the upper tier, or put into it the safeguards that will allow the proper compensatory implications to be considered.

Mr Hardeman: I didn't realize you wanted it out for the upper tier too. The other issue you mentioned was the appeal to the OMB on minor variance. The nature of a minor variance—it should be minor enough, at least in our opinion, that the local government should be able to make that decision, and their decision should be accepted. Recognizing that a lot of presenters have put forward the case that minor variances are not necessarily minor, and recognizing that you would need some type of appeal process, would you have any idea what we could put in place other than the expensive and lengthy OMB approval process that would be able to deal with that?

0930

Mr Winberg: The terminology of "minor variance" is one that is very well understood in the industry. What may be minor—my 18 inches may be very minor in the

case of my three-metre setback—it's a foot and a half out of six feet. Is that minor or isn't it? Then you think that there's a boulevard next door to it. The same 18 inches may be critical in terms of someone else's window, or window separation or otherwise. There is guidance that has been given by the board, there is guidance that's been given by the courts, and the real beauty of the minor variance system that has existed in this province for 40 or 50 years is that those who are involved in the system understand it.

There will always be abuses and you're never going to draft a system that is going to exceed the imagination of humanity. There are always going to be people who are going to push things to the limit, and I don't care where you draw the line. If you say to me it's 10%, somebody's going to figure out another way of calculating the 10%; if you say it's 20% or 2%, whatever it is. The beauty of the system that we have pre-Bill 20 is that it gives that flexibility and that opportunity to turn your mind to the problem at hand and say: Is this minor? Does this require the full process or, as in the case of my own land that's been through the full process, can we all say this is minor?

Again, you can't draft a system that's going to work automatically. You've got to have people who are dedicated, people who are trained, people who are qualified running the system, involved in the system, and you've got to trust their judgement. Where are we as a society if we're not prepared to trust the people we put in charge to do their job?

The Vice-Chair: Thank you for coming before us this morning. We do appreciate your presentation.

LAKE OF BAYS ASSOCIATION

The Vice-Chair: Could we please have the Lake of Bays Association come forward.

Mrs Margaret Casey: Thank you, Madam Chair. I'm Margaret Casey, a director of the Lake of Bays Association, and I speak on behalf of LOBA. I would like to just point out that we too are property owners, but we have a fairly different perspective on Bill 20 than the previous presenter just said. We are pleased, however, to have this opportunity to present our comments on Bill 20.

The Lake of Bays Association has over 1,400 members on and around the shores of Lake of Bays, a large inland lake in the district of Muskoka. Our membership includes both seasonal and permanent residents of the township of Lake of Bays and the town of Huntsville. In 1987, LOBA developed the following vision statement to guide our activities, "The purpose of the Lake of Bays Association is to promote, maintain and enhance a clean, healthy and natural environment, a well-served community and a safe peaceful Lake of Bays."

Land use planning issues have long been a focus of our association. In 1993, we completed this report, Strategic Plan Towards Sustainable Development. The goals of this plan include, among others, the endorsement of the ecosystem approach to planning for our future, and the protection and enhancement of water quality in the Lake of Bays watershed.

In the last year, we were a party in an OMB hearing regarding the redevelopment of several hundred acres on Bigwin Island to waterfront and estate residential lots, a golf course and some ancillary commercial uses.

The township of Lake of Bays has just completed a process called Visioning the Future. This process was directed and executed by a steering committee of 22 permanent and seasonal residents in the community. Two of our members were on that steering committee and many of our members participated in the 55 community meetings. The result of this process was this brochure and a vision, and I'd like to read that vision to you:

"The residents of the township of Lake of Bays will nurture and sustain clean water, fresh air, natural shorelines, healthy forests and wetlands that will be the pride of the province. We will offer an outstanding combination of economic opportunity, peaceful living and recreation. This is our dream and legacy for our grandchildren's children."

This vision is remarkably similar to LOBA's; however, LOBA is concerned that Bill 20 and its associated provincial policy statement will very likely block the efforts of our association and the residents of our township to achieve this vision for our community. We have three major concerns regarding Bill 20 and the draft policy statement:

First, they ignore the interdependence of the economy and the environment.

Secondly, they will mean less public participation in the planning process that will determine the future of our community.

Finally, they do not provide the district of Muskoka and our area municipalities with the necessary tools to adequately control their planning process.

We expect that many cottagers in Muskoka, and indeed elsewhere in the province, share our concerns. First, I will explain why we believe Bill 20 ignores the interdependence of the economy and the environment.

As evident in the vision statement, the interdependence of the economy and the environment is recognized by the public. The Crombie commission boldly identified the ecosystem approach that highlights the interconnectedness of the economy, the environment and the community to achieve a balance of health and wellbeing for all inhabitants. The Commission on Planning and Development Reform in Ontario heard this same message in its extensive two-year consultation process. The current district official plan recognized this interdependence by stating, "The growth necessary to continue to rejuvenate and take forward the economy of the district must have respect for environmental constraints, physical influences and ultimately the character of Muskoka."

Donald Gordon, executive director of the Muskoka Heritage Foundation, has said: "In rural areas, such as Muskoka, our continued prosperity depends on the careful management and protection of our natural heritage. Without sound planning policies, the very basis of our economy is threatened."

LOBA believes that this well-understood interdependence is ignored in Bill 20 and the draft policy statement. This document is not under review by your committee, but we as a volunteer group will be submitting comments

on that to the Ministry of Municipal Affairs and Housing. Let me identify how we believe Bill 20 ignores this interdependence.

First, the ability to ignore policy: Bill 20 reverts the Planning Act to the old standard that decision-makers "shall have regard to" provincial policies. This change, coupled with weak, confusing provincial policy, will likely increase uncertainty, inconsistency, delay, and the frequency and length of OMB hearings. As residents and property owners, we are concerned that the planning decisions that "shall have regard to" the draft policy statement will result in uneven standards applied across watersheds. We fear that, once again, there will be inconsistent application of ecosystem principles between adjacent municipalities.

It is difficult for LOBA to make a specific recommendation to address this first major concern, as we fundamentally disagree with the direction that Bill 20 is going in.

With respect to another area in this interdependence, we are very disappointed with the loss of the provincial approval function. Our watershed includes parts of two upper-tier municipalities and four lower-tier municipalities, plus parts of Algonquin Provincial Park. Not all of these various municipalities have official plans or require the careful consideration of the impact of development that our community has specified in this particular vision. As cottages, we understand that there is always someone downstream. We are the downstream recipients of others' development and our development activities will impact other cottagers downstream of us. With the delegation of provincial approval to the county of Haliburton, where there is no planning function and no planning staff, our level of concern of uneven respect for natural features such as watersheds is very real.

By delegating approval to upper-tier municipalities, we believe that environmental protection may likely be left to the public, whose only resources are volunteer hours and after-tax dollars; we cannot expense any of our costs at OMB hearings as developers can. Even provincial expertise will be difficult to enlist as MNR and MOEE offices are closed in our communities.

A third concern we have in this respect of the interdependence is the loss of quality control in official plans. Bill 20 removes the regulation that would specify the contents of an official plan and reduces the approval time for official plan amendments to 90 days before the automatic right of appeal is available for developers. It appears to LOBA that official plans will neither be official nor plans. Ontario is returning to a system of planning by amendment, thus providing property owners with no assurance of the orderly development of their communities or protection for our investments in our property in communities.

It is difficult for the Lake of Bays Association to request specific amendments when we fundamentally disagree with the direction of Bill 20. The policy statements contradict the broad consensus achieved by the Sewell commission through its two years of extensive consultation with all sectors that are affected by planning: municipalities, developers, planners and the public. As taxpayers, LOBA members understand that it is the public

that ultimately pays the cost of bad planning. We pay through our municipal taxes to remediate polluted soils, to remediate polluted rivers, lakes and streams, and to correct erosion problems. We pay through taxes for alternative sources of water when groundwater is polluted. We pay through our provincial taxes for increased health costs when air quality is degraded by congested roads. We don't want to pay any more, but Bill 20 and the draft provincial policy statement will mean that we continue to pay.

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It is difficult for LOBA to make specific recommendations when we disagree with this fundamental direction that Bill 20 is going, but we do want to be involved and contribute to this process anyway. Thus we offer this one recommendation as a minimum requirement to address this first broad concern: We ask you to amend Bill 20 to grant approval function to an upper-tier municipality only after that municipality has brought its official plan into line with provincial policies and has an official plan that has received provincial approval.

I will now address our second concern: reduced public participation. Given that LOBA members own property and have expressed an interest in the process that will determine the future of their community, we deserve the right to a fair opportunity to participate. Bill 20 reduces our ability in four ways.

First, with the reduced notice requirements for official plan amendments, Bill 20 produces a 20-day notice period for public meetings for OPAs. Statutory notice in our township usually occurs through a local weekly newspaper that I receive here in Toronto about a week after it is published, if mail is good. In order to comment about any specific application, I would have to travel up to our township, review supporting information, then come back and consult with directors and other volunteers who may be scattered throughout southern Ontario in order to put forward a position on the specific application, all within the remaining 14 or so days, despite job, family or other personal commitments. Remember, we are volunteers. We do not believe this is fair. As property owners, we wish to be given a fair opportunity to participate appropriately in the planning decisions that will affect the future of our community.

Thus we ask you to amend Bill 20 to provide a 30-day notice requirement for public meetings for OPAs.

Our second concern in the reduced public participation is the removal of the requirement for a public meeting for consents and subdivisions. It is our experience that many details may not be available at the OPA stage. When details become available at the subdivision stage, it will be difficult without a required meeting for the public to ensure that its interests are acknowledged. Consents create new lots for developments on lakes. Cottagers understand that lakes have a finite capacity to accept additional development without sacrificing water quality. As absentee land owners, we are losing the opportunity to present our views at a public meeting and we may be losing our right to be notified regarding council meetings where planning decisions are made that can affect us significantly. At the same time, we have the responsibility to attend meetings where decisions are made to retain any

appeal rights. It's hard to be at meetings when you don't know they exist.

The Lake of Bays Association asks you to amend Bill 20 to require a public meeting for consents and subdivisions.

Our third issue is the reduced time frames for decisions and referral process, and I've included a chart showing the specific time frames. As property owners and taxpayers in the district, LOBA members are concerned that our elected officials and municipal staff will not have sufficient time to review and consider all the implications of a development application within these time frames. We fear that the future character of our communities will be determined not through an official plan but by ad hoc decisions made by the market. Protection of the public interest is lost. The district of Muskoka has expressed similar concerns, and I will quote from their report to MMAH:

"The Bill 20 time line will present a challenge for all but the most straightforward amendments. The time frames described above really provide limited time for conflict resolution....

"Both the areas and the district will be under considerable pressure to meet the time frame....

"The revised approvals time lines will very much affect how our municipalities process development applications and what type of public participation can occur."

District staff has also expressed concern that Bill 20 removes the ability of approval authorities to consider a referral request before an amendment is sent to the OMB, as they had used this mechanism to save time and funds. "An automatic appeal also minimizes the opportunity for alternate dispute resolution," and they've identified that.

As taxpayers, LOBA believes that Bill 20, as it stands, will likely increase municipal costs and lessen the ability of our municipal staff to ensure the orderly and appropriate development of our communities. Our municipalities must have the tools they need to ensure that development applications meet the standards the community has set.

We ask you to amend Bill 20 to restore the approval time frames of Bill 163 and to restore the referral process for OPAs, subdivisions and consents of Bill 163.

Fourth in this area of concern with reduced public participation is the removal of appeal rights for minor variances. Bill 20 introduces a new process for minor variance applications that has been described as "cumbersome and problematic." That is from this particular legal analysis of it, and it's footnoted. I have limited experience here, but LOBA does support, understand and appreciate the concerns of many other cottagers' associations for this issue.

We ask you to amend Bill 20 as per the recommendations of the Federation of Ontario Cottagers' Associations which they will present to you at your committee hearing in Cobourg next week on February 22.

Our last major area of concern is municipal control over the planning process. We support the concerns identified by the district of Muskoka. Their first concern is the inability of a municipality to define a complete application. They clearly identified this concern by stating: "The legislation speaks of 'prescribed' and 'other

information needed'; however, it is only the prescribed information that must be provided in order to start the approvals time frames. This leaves municipalities facing the new appeals time lines without the ability to require the information they feel is necessary to make a decision. Information can be requested but it will be up to the OMB to decide if the request was reasonable." Those are all their words.

As taxpayers, LOBA is concerned that the district and area municipalities will be faced with making a planning decision without the information staff feel is necessary. This is not acceptable.

We ask you to amend Bill 20 to allow a municipality to require and receive "other information needed" in order to start the appeal time lines.

The district's second concern is the loss of the prematurity test which they have described as a logical and practical tool to have available. LOBA agrees that the reinstatement of this test will avoid costly and lengthy disputes if it is not timely for development to proceed.

We ask you to amend Bill 20 to reinstate the prematurity test of Bill 163.

A third concern of the district's is the uncertain precedence of stronger official plan policies over provincial policy. While the draft Provincial Policy Statement is not being reviewed by your committee, a statement in the implementation guidelines on page 8 does give us concern, and the district as well. I'd like to read this particular statement to you: "Nothing in these policies is intended to prevent planning authorities from going beyond the minimum standards established in any of these policies, unless doing so would conflict with any other policy."

I refer to comments by the district of Muskoka to identify our concern here: "It would make sense, therefore, that once an official plan is approved by the province that it would be the document to provide policy guidance. A major benefit would be the clarity and certainty provided to ratepayers and developers on how and where development will occur."

The Lake of Bays Association asks you to amend Bill 20 to specify that policies of a municipal official plan, once approved by the Minister of Municipal Affairs and Housing, shall apply and take precedence over the policies in the Provincial Policy Statement until such time as the Provincial Policy Statement is amended.

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All of these recommendations I've been quoting from the district of Muskoka are also in their staff report, which has been approved by council and committee and is being forwarded to you.

In conclusion, LOBA believes that Bill 20 and the draft Provincial Policy Statement provide the legislative framework for land use planning in Ontario; we understand that. The Lake of Bays Association, though, does not believe that Bill 20, as it stands, provides the necessary tools for a municipality to have sufficient control of the planning process for the protection of community interests and natural features. Nor does LOBA believe that Bill 20, as it stands, provides a fair opportunity for property owners such as cottagers, and indeed the permanent residents of our township, to participate in the

planning process to protect our investments in our vacation properties.

We ask that you give careful consideration to the concerns we have identified, and we also ask that you support the recommendations we have offered to provide municipalities and taxpayers with the minimum necessary tools to protect our community and its resources. Thank you very much for this opportunity and your attention.

Ms Churley: I find your brief to be very informative in terms of how ordinary property owners feel. You clearly feel that you were left out, that you're not considered to be a part of or have an interest in the development of planning issues in our province, which is wrong. This is going to come back to bite this government.

I want, because it's such a short time, to ask you to come back to the issue you brought up around the county of Haliburton not having an official plan, yet being able to have the ability to approve your lower-tier plan. Can you expand a bit on the implications of that?

Mrs Casey: Our concern is that the county of Haliburton did away with their planning department a number of years ago, yet this province is going to give them the approval authority when they have no planners, no expertise etc. They are upstream of us. We have no control over what happens there. It is extremely difficult for us to get the notices etc. to be able to participate in that process. This is such an abdication of provincial responsibility, I just cannot believe it.

Ms Churley: Am I correct? You said they did away with their—

Mrs Casey: My understanding is that about two or three years ago, as a cost-saving mechanism, the county of Haliburton did away with their planning department. How can they have approval over the lower tiers when they have no planners?

Mr Bruce Smith (Middlesex): Thank you for your presentation. I was quite intrigued by the brochure you included in your presentation, because in the community I come from we have just completed a similar exercise. Given the leadership that's indicated on this, both municipally and obviously the commitment you have made as an association, much of what you've identified here—a sound economy, responsible leadership, quality of life—would you not agree that to achieve many of these positive objectives, flexibility in the municipal planning process is critical to your success?

Mrs Casey: I was up yesterday morning in Dwight. I went up for the day, down and back, for about a two-hour meeting and six hours of driving. That is the personal commitment I have to put into this. They expressed concerns as well about Bill 20. They do not believe that they are going to have the time, that they can meet the time frames.

I was up at the beginning of February talking to the district of Muskoka, to their planning and economic development committee. They too understand that we will have development, but they want the tools to assess and to ensure the proper development of our communities, and that will not come with this bill.

Mr Smith: I would disagree with you in that regard. I just want to follow up on one other issue. You've made reference to subwatershed planning. In my community,

we've just completed six separate subwatershed plans under Bill 163. The challenge we have now is how do we implement it. I'm suggesting to you that the same challenges under Bill 163 will be presented in a different context under Bill 20, and what I'm saying is, as we have different communities, both upstream, intermediary and downstream, even under the current legislation we're at a major stumbling block on how to implement that. Can you help me suggest to my community, irrespective of the changes, how that implementation might proceed and how the objectives of subwatershed planning might be achieved?

Mrs Casey: To do that, I have to put on another hat, a volunteer hat that I have. I have been involved for the last three or four years as a resident who has been appointed to the Don watershed, first the task force and then the Don watershed regeneration council. I go back to the Don as being the best example of why we need strong provincial policy and clear rules for public participation and clear tools for municipalities. The Don is the best example of development that was allowed to go ahead under the old system pre-Bill 163, and we are now paying the costs of that bad development. It is in the billions of dollars that we will have to spend to bring the Don back to health, and we can't afford it now.

If we set out clear rules at the beginning of the planning process and we respect our natural heritage, we respect those areas that should not have development, then we will not incur infrastructure costs down the road. I understand. You are caught in the position that we are in the Don. What I'm saying is that foresight and preventive measures are far more cost-effective than remediation.

Mr Gerretsen: It's very interesting listening to your presentation and the one that's come before this. We've heard presentations now for the last three to four days, and when we deal with the Planning Act itself rather than the apartment issue, which is sort of a side issue—it's a planning issue as well but it's a different kind of issue—I'm really struck with this notion of the us-and-them attitude, the development industry saying, "It's a great thing to do it," and the people who are concerned about the kinds of concerns that you've stated are saying, "No, it's the worst thing we've ever seen."

It seems to me, having been involved in the planning process from a municipal viewpoint and different other viewpoints over the last 20 years or so, that there's got to be another way. This notion has been floated about by some people that somewhere in the system there's got to be a mediation process, because after all, what we end up with are communities, and they're either badly planned communities or well-planned communities, and everybody should win in that process. Do you have any kind of comment? Do you think an effective mediation kind of process where development is concerned is something worth exploring or looking into, and could it work?

Mrs Casey: That is a tough question. I am a housewife. I am not a planner. I have never had any experience as a planner. All I have done is tried to participate in the development of our community. I was involved with the Bigwin OMB hearing and what concerned me were the resources that we had to put, our after-tax dollars and our

volunteer dollars versus what the developer could expend. He expended all of his planning expenses, his consultants and his lawyers. We have to fund-raise to go to any of those.

My concern with Bill 20 is that where the resolution is going to happen is at the OMB. We have already bought into that community. We have stated that we like it. Our association understands that there needs to be jobs in our community. We have to have jobs for the permanent residents in the district of Muskoka and in our township and we have to have jobs for their children.

The Ministry of Natural Resources were also a party to this OMB hearing. They pulled out 36 hours before the mediation meeting. At the mediation meeting, in the last hour, the developer wanted to add an extra 100 units of commercial in his right, to add it into the official plan amendment. We had gone through a lot of negotiation and mediation, working ahead of the mediation meeting itself. The mediator sat there and tried to figure out how we could accept an additional 100 units. It's too late. You have to have respect on both sides. We recognize as the community that we need development, but we ask developers—

Mr Gerretsen: The best plans are those the entire community buys into in the long run. There's no question about that.

Mrs Casey: Yes. In our community we've now stated our vision and we hope this will be the mechanism that our municipality, our elected officials and the staff will be able to judge. We ask developers to respect it as well. We have property rights also.

The Vice-Chair: Thank you very much, Mrs Casey, for coming this morning and presenting your case.

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ROBERT LEHMAN

The Vice-Chair: I would ask that the representative from the Simcoe-Muskoka subcommittee, Ontario Professional Planners Institute, come forward.

Mr Robert Lehman: I'd like to start by indicating that while I am a member of the executive of the Ontario provincial planning institute and the representative of the Simcoe-Muskoka area, OPPI will be giving a separate and far more comprehensive brief, I think the next turn after mine, so I'm speaking on my own behalf today. For that reason, I'm going to have to be slightly immodest to tell you why I think I'm qualified to do that.

I have acted as a planning consultant for the past 25 years in this province through four versions of the Planning Act, and in many of the municipalities that the members of this committee represent. I've done work in Kingston; I've prepared London zoning bylaw. We currently act on behalf of about 45 municipalities from Kenora through to the Brockville area.

I've appeared about 200 times in front of the Ontario Municipal Board, many times on minor variance applications, and four years ago I was retained by the Sewell commission to prepare a report on the adequacy of the planning process from the perspective of municipalities in Ontario. I have one copy of that which I'll leave with you.

For the past three years I have been on contract to the provincial facilitator's office to act as a mediator in minor variance disputes in their pilot project, which was very successful and which I'll speak about.

On the basis of those experiences, I'd like to make two or three comments.

First of all, planning decisions at the local municipal level are usually the most significant local decisions that affect people's lives. They are the most controversial ones because they hit you where you live, literally. Whether it's at your home or your cottage—and I'm also a member of the Lake of Bays Association, by the way—people react generally negatively to proposed change because it represents the unknown and they don't know what it means. I think you heard a lot of that from the previous speaker. The push generally is, we need rules so that we can be sure that developers will follow them.

The Planning Act in Ontario, and I say this from the perspective of one who has reviewed the planning acts in the 10 other provinces and two territories, is in my opinion an extremely good one, and has been, and it has two key elements that make it so.

First of all, the public nature of the process, which is mandated by the Ontario legislation, makes sure that all parties, including the cottagers' associations and the next-door neighbours, have the available information. We did some research with Decima Research to investigate why people didn't like high-rise apartments, and we discovered it wasn't that they didn't like high-rise apartments; it was that they felt left out of the process. They felt they didn't know as much as other people. That led to the fear of the unknown. The act allows the information to be out; in fact, it mandates that information be available. The public meetings give an opportunity for everybody to be heard, and then you leave it to the democratic process, which I think is fair.

The second key element which is unique in Ontario to all of Canada is the nature of the Ontario Municipal Board. It allows a clear right of appeal to an objective and impartial body. I have over the last 25 years grown to believe that this is one of the most important factors that make planning in the province as successful as it has been. We change the act to bring it up to date, to reflect the philosophies of the particular government, but it has consistently maintained the role of the board. I can't tell you the number of times I have seen disputes at a local municipal level be resolved by the municipal board, not necessarily because the outcome was something that everybody liked, but because they had a chance to say something and they felt they were being listened to impartially.

I do work in these 45 communities, many of them rural ones, and nothing is worse than a planning issue that has gone on for a decade and is still unresolved, and you still have people yelling at council meetings because they think they are being ignored or they think there's something going on behind the scenes. The municipal board removes that. It leaves communities with a clean slate after these issues are done. So I'm obviously happy to see the municipal board is still being used by the legislation. I've probably conducted planning work in half the municipalities in this province, and no matter whether it's

rural or urban or north or south, whether it's a minor variance application or a large-scale amendment, the role of the board is important in every one of those kinds of applications.

With respect to the proposed changes to the act, I was first of all very impressed by the delegation of authority down to local municipalities, and that comes very much from the work we did for the Sewell commission. We went out to a sample of 40 municipalities, I think it was, in Ontario, and they were sampled according to large urban, small urban, large rural, small rural, fringe municipalities, northern municipalities. We asked them what was good or bad about the act. Remember, this was prior to Bill 163.

What they told us and what we brought back to the commission was that the current problems, whether they were perceived or real, were primarily related to the administration of the Planning Act at the provincial level: not the act, but the way it was administered.

Secondly, the municipalities told us that the existing legislative framework was adequate. It needed fine-tuning, but it was adequate to provide for appropriate municipal planning right across the province. They said, and I'm quoting from the four-year-old report, "The lack of an appropriate mechanism to mediate conflicting provincial interests has led to planning decisions based on compromise rather than merit." I think the one-stop Municipal Affairs window for appeals to the board and also the provisions, to be fair, in Bill 163 that dealt with that address that issue.

The municipalities said local planning procedures and documents work well because they're geared to local circumstances, and I can tell you that it was very interesting to find that in the majority of these municipalities, the planning staffs had been there 10, 15, 20, and in some cases 25 years. They had grown with their job. They had started in their twenties; they were 45 or 50 years old. They were very competent. They knew what they needed. They knew what was the most appropriate planning for their area far more than the provincial body would. At that point in time four years ago, there was a severe degree of conflict between provincial interests and local interests.

Finally, at that time, municipalities were circumventing the provincial planning and approval process to avoid lengthy time delays. We saw things come through our office like applications for 16 severances to avoid a subdivision application in a rural area. I think that now has disappeared.

I'd also like to suggest that many of the delays that have occurred in the past both at the board and in the provincial approval process were really a function of the time. We went through an incredible building boom. It's occurred three times in the last 25 years. Just to give you some general idea, I think the municipal board five years ago had 4,000 files on hand; now they only have 2,000, and their hearing times have dropped from 18 months to four to six months. So much of what Bill 163 and your bill are reacting to in terms of shortening time frames I think you will find naturally is disappearing in any case.

That's why my comment about the time frames is that you can change the time frames. The stuff that people

want will go through very well. It will be fast-tracked. The stuff people don't want will get slowed down because they'll try to resolve it, which is a good way to resolve things, by mediating it or by compromising. You can set 20 days or 30 days. Quite frankly, I've been around long enough to think that won't make a big difference. It's good to have the standards and I have no quarrel with shortening them whatsoever.

Finally, with respect to minor variances, the bill proposes to allow municipalities two choices. They can continue to send appeals of minor variances to the Ontario Municipal Board, but then they are responsible for the costs. When you start working through the details, this is unworkable. Who pays the costs?

The municipalities will not pay the costs of an appeal. They will put in an application form that if you're applying for a minor variance, you will pay the cost of the appeal, in which case let's say I want to put an addition on the back of my house and my neighbour objects; I haven't spoken to my neighbour in 10 years, and we probably are both looking for something to get at the other one with. I'm then put in the position, if he appeals my minor variance, of paying the costs for an indefinite time period which my neighbour can affect by lengthening out. It's impossible. It's like a civil court system where you pay the court costs if you bring an action. It will deny natural justice, in my opinion. I think it will literally be unworkable.

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The other choice is that a municipality does not send it to the Ontario Municipal Board and they conduct some kind of review committee. That's fine, but that's not an appeal. They're reviewing their own decision. I don't think that would be seen as an appeal, nor would the people necessarily have the experience or the knowledge to be able to properly conduct that.

I have been acting for the last three years on behalf of Dale Martin's office in mediating and I'm offering an alternative here to the removal of the appeal, committee of adjustment appeals, primarily in the city of Toronto, although some have gone outside Metro and outside the GTA.

The pilot project, for which I am sure the information is available through the Ministry of Municipal Affairs, was extremely successful. Of the appeals that were mediated over a three-year period, 80% were mediated to the satisfaction of the participants and they did not go to the municipal board. The average cost of the mediation was \$800 to \$1,000, an amount, in my opinion, that is certainly in line with what could be included as an application cost, or certainly in line with what a municipality, say the city of Toronto, would have no trouble funding, as opposed to sending their lawyers and staff to an Ontario Municipal Board hearing.

The key factor we found in mediating the appeals was the need for the mediator to be appointed by a neutral third party. The first question you're asked as a mediator is, "Who's paying you?" If your response is one of the parties that's in the dispute, such as a municipality, you have a problem in being an objective and neutral mediator.

It's my recommendation to this committee that if the bill continues, and I'm not recommending it does, and the right of appeal is taken away, the province offer through one office or another essentially a brokerage for mediators as a bank. Municipalities could pay into the fund through the application fees or pay after the fact, but the mediators would function at the provincial level and be appointed by provincial office. I don't think the cost is substantial. You conducted the project for three years. It was very successful and you can look at the costs and determine whether that's appropriate or not.

However, if you actually look at what you would be saving by removing the right of appeal, only 6% of the municipal board's time is spent on minor variances. They represent a relatively small proportion of their files. That number has been less in previous years, but I spoke with the secretary of the board yesterday and currently 6% of their time is spent on that; approximately 10% of their files are minor variances, but only 6% of their time. They deal with minor variance files very quickly. They often hold six hearings in one day; they're one-hour hearings.

I also act on behalf of property owners who make applications for minor variances. I have one now, before the city of Toronto next week, to create five new lots in the city and build five homes. That's a minor variance in Toronto; it wouldn't be anywhere else except maybe Toronto, and it's not 18 inches, it's substantial. It's a very effective process in Toronto. The applicant went once, the neighbours didn't like some aspect of it, he was turned down, he came back, he changed the application and he's going back to the committee. He may or may not receive approval, but this will all occur within a three-month period: very fast, very effective. All the parties have a chance to comment; all the ratepayers' groups and the ward aldermen.

If the right of appeal is not there, this developer told me he will turn his applications into rezoning applications, where the right of appeal is available. Anybody can file an appeal and the politics in certain situations are such that you simply can't allow yourself to be turned down without that right to appeal; there's too much at stake.

If even a few minor variance applications get turned into rezonings and go to the board, it takes much longer to hear rezoning applications at the board because generally they are more complicated. They take one to three days. So I'm not sure you would accomplish an efficiency of using the board's time by removing the right to appeal of minor variances, because I think they would be replaced by rezoning files.

I'd be happy to answer any questions.

The Vice-Chair: We have just about four minutes per caucus and we'll start with Dr Galt.

Mr Doug Galt (Northumberland): Thank you for your presentation and for your one sheet with all the information on it.

Mr Lehman: I take the word "brief" to have a meaning to it.

Mr Galt: Just in connection with the minor variance you discussed a bit, taking what I have thought of as a minor variance, you've kind of caught me off guard with five houses as a minor variance. I think more in terms of

18 inches or changing lot lines because a garage is too close, or whatever. Going to the OMB has always struck me as trying to kill a fly with a sledgehammer. It seems to be overkill. This proposal, this Bill 20, is trying to have a fresh look at it.

Do you see anything that might come in between, any other system—I know you've said 6% of the time of the OMB is being held on it—and meet your comment about six hearings in one day? That certainly streamlines it. Do you see any other system whereby this might be handled more efficiently?

Mr Lehman: The municipal board now has three mediators itself, and they are also achieving a very high success rate in dealing with applications like that. The difficulty in finding something else that's in between—I've found in many cases I was given a file, I looked at it and it seemed open and shut; I couldn't understand why somebody was appealing. Yet, when you got into it and you heard them, they were very valid reasons. So I have tried to think about some arbitrary cutoff point, some numerical point where you'd say if it's a variance over X%, but I don't think that will work. All the circumstances are too unique to each one to do that.

But I do feel that either mediation through the board's offices or through the provincial facilitator's office would probably remove the majority of those appeals from going to the board, because those people, if they're neighbours' disputes, just want to be heard.

Mr Galt: The other areas, your very last point here is right on with Mr Gerretsen's comment earlier, "It's difficult, we want to develop, there isn't a person in this room who doesn't want to protect the environment and we want to get on with some development so that there can be some jobs." It seems like there are two big icebergs coming in collision and it shouldn't have to be that way. Do you see another system, similar to his question previously, where by mediation, whatever, these can be brought together in a less confrontational way and accomplish what we're after?

Mr Lehman: I have two comments on that. The first is that I think the theoretical arguments you hear to some degree at this committee from interest groups, at the actual, real level don't work that way. On a very large scale, yes, and we're not trying to balance seriously the economy and the environment. I think people's interests are generally much closer than that kind of a base expression. When it gets right down into an application being filed and people meeting, I don't think that conflict will exist. I don't think this bill is going to change the nature of that.

The kinds of planning that our firm is doing and that I see other municipalities doing is much more community-based. It used to be; you went there, you wrote the plan, you came back and gave it, you waited for comments and then you sent to the minister. The way it happens now is, you form innumerable committees and the plan works from the bottom up. That is not that recent; I think that's the last three, four years. I think strategic planning has flipped over into land use planning and changed the process.

I'm finding far more agreement among people on their basic values in the work we do in communities today

than I did five or six years ago. The kinds of conflicts that we're talking about, sure you're going to see them in Toronto if you're arguing about where a stadium is to go or something like that, but in 95% of the applications, and the official plan amendments that are going to go through, and the plans for communities like Lake of Bays, I think you're going to find people with a commonality of interests that's much greater than it used to be. Part of it is demographic too; we're all sweeping through at about the same time and hold much more similar values than there are among generations.

Mr Gerretsen: Of course, there's another reason as well. In some communities the political leadership sometimes brings these people together before an application is actually heard, or the planning departments sometimes start playing much more of a mediation role. I just have to congratulate you on this one-page summation of your views. You have said exactly how I felt about it then.

I've been involved in a system on one side or the other for the last 20 to 25 years. Most of the problems are administrative. They're administrative processes both at the local level and at the provincial level that simply no longer make any sense, where paper is being shuffled because it has been done in a certain way for a certain period of time. I think it would be a lot better if we took an actual situation and work it through from each side, from a developer's side, from a community group's side, and said, "What are the problems here, and how can we resolve the situation and then come back with an act?" rather than come back with an act that changes some time periods which quite frankly, and I totally agree with you, in the long run don't make an iota of difference. Whether you say 20 days or 30 days, from a practical viewpoint it takes a year to get a rezoning done, it takes nine months to get something else done etc.

This whole thing about minor variances and appeals to the OMB, I'm all in favour of local planning and that planning ought to be finally made at the local level. But what we're talking about here is people's appeal rights, which is something totally different. To in effect have an appeal go back to the same body that is somehow involved in making the original decision is against all the rules of natural justice that have been around for centuries, for ages.

I'd like to know a little bit more about this mediation process that you're talking about, because I really think that if we're interested in the overall total, final welfare of whatever community planning there is, then everybody has got to somehow buy into whatever the final project is. Can it start at an earlier level?

1020

Mr Lehman: I can do this quickly. It's very important, when you're mediating something, to have a negative consequence if the parties don't come to an agreement. So you have to have, in my opinion, the spectre of a municipal board hearing, with the costs associated with it, as the negative consequence, which means to some degree you can't start a formal mediation till somebody has objected. That's why the provincial facilitator's office was so successful. Mediation started when somebody formally objected to the municipal board, we called them

up and we said: "Your choice is this. Go to the municipal board and spend \$5,000 and get a decision that you may not like at all, or come and talk with us."

So I think what you're talking about is what many municipalities' planning departments do. They facilitate discussions among the parties. They're not formally mediating, because they have an interest. I think that works extremely well. The city of Ottawa, that's what their planning department does. They won't bring an application to council unless all the parties agree on it. Sometimes it takes four years in Ottawa, but that's the way they work. That is spreading, but it's different than the mediation.

Mr Gerretsen: I have just one other comment. The example you gave on minor variances, where in some municipalities we're talking about an 18-inch setback and another municipality's are five lots etc, that's a realistic thing, and that's why it's so difficult, would you not agree, to define a minor variance in the legislation, because what may be minor in one circumstance simply isn't minor in the next one.

Mr Lehman: There's great case law in this. I think it's good and it should be left. I guess that's what I'm saying.

Mr Gerretsen: I think the ministry would be wise in hiring you to take a look at this stuff from a practical viewpoint, which is basically what it's all about. I don't know you. Have I ever met you before? I don't think so. Okay.

Mr Lehman: No, I don't think so.

The Vice-Chair: That was for the record, right? Thank you very much, Mr Gerretsen. Ms Churley.

Ms Churley: Give my regards to Dale.

Mr Gerretsen: So you know this gentleman, do you?

Ms Churley: No, I don't; I just know Dale. Everybody knows Dale Martin is, was, whatever, a New Democrat. I hope, therefore, that the present government won't fire him. Oh-oh, I've done a disservice to him there. In fact the ideas, especially around mediation, I know Dale has been a master mediator and has a lot of insight into ways that we can solve a lot of problems through mediation.

I just wanted to ask you a very direct question. Are you saying that overall Bill 163, Bill 20, in many ways it doesn't matter that it's the administration that's basically the problem?

Mr Lehman: I'm saying that the problems that Bill 163 and Bill 20 were both trying to address I think lie more in how the act is administered than what is in the act. I'm not saying it's only that, by no means, because clearly some of the problems with administration had to be dealt with through legislation. I'm not faulting individuals or groups of people at all. It's simply that any system made up of people over a period of time needs some kind of change. I think the regular changes to the Planning Act accomplish that. But that the problems were administration, that was the perception of the planners in municipalities.

Ms Churley: I feel that in many ways I have a lot of criticisms of Bill 20, but unfortunately the administrative aspects that are problematic aren't being fixed, in that public participation is being cut down as a way to speed it up, and the ability of ministries other than the Ministry

of Municipal Affairs and Housing to appeal has been cut out. Streamlining is fine, coordination is fine, but I just don't think that the real problems are being dealt with here. I think we're going to have to look at that in terms of how we amend the bill.

I wanted to get back to your comment about how you like more municipality autonomy. I was around in government when we consulted for such a very long time on changing the Planning Act. I know there wasn't a complete consensus on, for instance, "be consistent with," and that's something that comes up time and time again. It's quite interesting to me that developers love this bill, with a few exceptions here and there. They love this bill, and on the whole, ordinary property owners, environmental lawyers and policy activists don't like it, are very angry about it and feel that they're being left out. They have really big disagreements about this, for instance, "have regard for" and "be consistent with."

I remember us, as a government, going through all that and being convinced that we needed to go with being "consistent with" for this reason: Municipalities were granted more autonomy; the tradeoff was that there had to be, therefore, some kind of broad provincial policy. Forget about the stupid guidelines, which I admit caused a lot of confusion and problems; the policy had to have broad direction about protection of the environment and sensitive areas and curbing urban sprawl.

Mrs Casey, from the Lake of Bays Association, whom you know, talked about the fact that there are no boundaries when it comes to protecting the environment, and she gave a very good example of that: downstream. I think that's what is really at the centre of the disagreement around that, that there's got to be some broad provincial interest in protecting the environment. The fear is that with just having "have regard for" you can toss it away, ignore it and then go on with local planning, which may or may not have good municipal leadership, and you have a mess in one county or one area.

I guess I should stop here before my time is up and have you comment.

The Vice-Chair: Excuse me, but your time is up, I'm sorry to say.

Ms Churley: Could he answer the question?

The Vice-Chair: Ms Churley, I'm sorry, but—

Ms Churley: I have been timing, Madam Chair, and on other occasions you have allowed people to answer questions when they were out of time.

The Vice-Chair: Ms Churley, I'm sorry. I don't mean to be heavy-handed, but the point here is that it is a three-party agreement before we start the hearing process; we know what we're allowed. I'm sorry, but if you take two or three or four minutes to ask a question in a four-minute allotted time, there's not time for the answer.

Mr Gerretsen: She only had three minutes and 15 seconds, according to my time.

The Vice-Chair: Excuse me, no, she didn't.

Ms Churley: Madam Chair, I have been timing other people. Maybe you mean to stop the practice, but I've noticed people from the other parties at times have taken up all their time with the question and you've allowed time for the answer.

The Vice-Chair: I'm sorry, this is not the time to debate the rules of the committee process.

Ms Churley: Could I have unanimous consent to have this question answered, please? This is ridiculous.

Mr Bill Murdoch (Grey-Owen Sound): This guy's just a winner, isn't he? He just tells you what to do, and you jump, Marilyn. I'm really impressed with this guy. Yesterday he did the same to you. So you don't get unanimous consent.

The Vice-Chair: Excuse me, Mr Murdoch. Ms Churley has asked for unanimous consent. Do we have it?

Mr Murdoch: No.

Interjection: Sure.

The Vice-Chair: We don't?

Mr Gerretsen: I heard unanimous consent.

The Vice-Chair: No, I'm sorry, we didn't hear it.

Thank you very much for attending this morning. We have enjoyed your brief.

SOUTH ETOBICOKE COMMUNITY LEGAL SERVICES

The Vice-Chair: If we could please have the representative for South Etobicoke Community Legal Services come forward. Mr Hale, thank you very much for attending today. I just would like to outline, for the sake of defusing the situation in the future, that we do have a 25-minute allotted period of time. Your presentation can be made however you see fit. If you'd like questions and answers at the end, we will need time to do that. The remaining time will be shared equally between the parties. So please proceed.

Mr Kenneth Hale: Good morning. My name is Kenneth Hale. I'm the lawyer-director of South Etobicoke Community Legal Services, which is one of the community legal aid clinics that provide legal services across Ontario. Our office is in the southwest corner of Metropolitan Toronto, and about half of the work that we do, half of our clients are people who have housing problems. That's why we're here to ask the committee to recommend that the government delete those provisions of Bill 20 that seek to undo the changes to the Planning Act and the Rental Housing Protection Act that were brought into law in 1994 by the Residents' Rights Act; that would be section 8 and section 73. That would make unnecessary the transitional provisions in section 45 and the complicated municipal registration process in section 59, and we would recommend that those be deleted as well.

1030

We've been in the business of representing low-income people in our community for the last 10 years. During that time, and under provincial governments of all three major parties, the lack of affordable housing has been one of the most serious problems in our community. However, like many other places in Ontario, our community is governed by a local council that doesn't like to admit that poor people live or work within its borders and tries to maintain an image that it's an affluent suburb made up exclusively of fancy homes on tree-lined streets with professional fathers and stay-at-home mothers. That really isn't the reality of the city of Etobicoke or many of these

other municipalities that try to maintain this exclusive image.

In the city of Etobicoke there is a high incidence, as there is in other municipalities, of family breakdown, of job loss, of disability. This means that the income required to maintain a single-family home on a tree-lined street just isn't there for a lot of people. Nevertheless, people, because they were brought up in Etobicoke, because they have ties there of friends and family, because they appreciate the public investment we've made in amenities there, want to live in the city of Etobicoke. Out of economic necessity a lot of these people have to live in rental accommodation, whether it be in a high-rise apartment, a flat above a store or a secondary unit in what once was a single-family home.

But the city of Etobicoke doesn't really like to acknowledge that we have tenants in secondary units and has tried its best to ban such units from certain parts of the municipality or to tie up their creation or regularization in needless in red tape. This is seen most recently in their official plan amendments which they had before the municipal board when the Residents' Rights Act was passed. They claimed the amendments were going to address the need for housing creation through second units, but they kind of rendered them not able to be passed.

They amendments they were looking at in their official plan would have said, "You can have a second unit in your house as long as the owner lives there." If the owner lives there, has a second unit, and decides to retire to Florida, they wouldn't be able to rent out the unit they had lived in. They had parking requirements for onsite parking which were completely unnecessary in most cases, and they didn't permit the exterior of the house to be altered in any way from its original appearance. It's basically a recipe for not allowing the units at all.

If Bill 20 is passed in its present form, we're sure these restrictions are going to come back in the same form or even stronger than they were originally in this official plan, and we're asking you not to let it happen.

These restrictions are completely unnecessary. They interfere with the small-scale, small-investor development of rental housing, rental housing that we need. We don't ever think of trying to limit the number of cars that individual homeowners can own or the number of children they can have. We rely on people's common sense and their sense of concern for their community to make sure they don't make their houses unattractive and unpleasant to their neighbours. But as soon as somebody from outside the family moves into some part of the building, all of a sudden these people are a threat to the social order, and it doesn't make any sense.

Our major concern is that there is a shortage of housing available in Metro for low- and moderate-income people. The overall vacancy rates are plunging. The market made up of housing low-income people can afford is even tighter; there is a very limited number of vacancies for moderately priced housing. Over the past 10 years that I've worked in this clinic, the problem has remained. It doesn't seem to have got too much better despite the fact that the previous two administrations had a commitment to address affordable housing and to provide affordable housing.

We don't really think it's going to get any better now that we have a government committed to getting out of the housing business and letting consumers fend for themselves. So far these new policies haven't created any rental housing in our community, and in fact the government has reneged on commitments previously made by the province to provide new units of affordable housing in the non-profit sector, so the situation is getting worse.

I don't think anybody would say that basement apartments or second units are going to solve the housing crisis. Even the best apartments in houses have potential problems at least, such as incompatibility of the occupants with each other, the overall safety of older structures as opposed to new structures, the lack of long-term security of tenure for tenants of these second units. We think purpose-built rental housing, whatever sector it comes from—public, private, third sector—has inherent advantages over second units, but when the province refuses to make any efforts to build new housing complexes, the gradual addition of second apartments takes on an added importance it might not otherwise have.

We think many of these units are going to be created whether or not the municipalities or the province permit them, but Bill 20, first, works to discourage people from creating these units, but second, it makes a choice about what kind of status the people who live in them will have.

That brings us to our concern about the status of people living in these units. We consider that they're in legal limbo, despite the fact that the Landlord and Tenant Act, if you just read it, makes it pretty clear that a tenant is a tenant is a tenant. If you live in premises used or intended for use for residential purposes, you're a residential tenant; you're protected by rent control, you're protected by the security-of-tenure provisions in the Landlord and Tenant Act. There's no exception in the Landlord and Tenant Act for illegal units, and they should have all the rights that every other tenant has.

However, in the real world, the courts and municipal officials don't always look at it that way. They don't like people to do illegal things. They tend to see tenants and landlords as working together to circumvent the municipal council's will, with the result that building inspectors won't make orders for landlords to bring up health and safety in these illegally zoned units. If a tenant calls an inspector to come in to deal with a repair problem, the inspector's more likely to order the tenant to leave the premises than to order the landlord to do the necessary work to protect the family's safety.

Similarly, the courts in many cases have refused to give assistance to tenants who have problems with illegal evictions or are seeking repair orders from the courts, because of the illegal zoning they're caught in.

But it's our position that it shouldn't be up to the tenant to determine whether an apartment they rent is in compliance with the zoning bylaws. When the landlord buys a property, they usually get a letter from their solicitor telling them what the zoning is for the property and what uses are permitted there, so the onus should remain on the landlord for the responsibility to comply with these zoning bylaws.

We see tenants who rent illegal apartments as victims, but they're the ones who end up getting punished by losing their homes. As long as these units and the tenancy agreements around them are treated as illegal, the individuals are going to be treated as second-class citizens. We believe this kind of outlaw treatment encourages landlords to evade paying taxes on the rents they receive; it encourages them to undertake renovations without building permits or inspections leading to health and safety and possibly liability problems. To let municipalities go back and re-legalize these apartments is sort of giving the provincial seal of approval to this black-market approach.

I know there are provisions here for a registry for two-unit houses. If it were a provision that all landlords had to submit their names and addresses and emergency phone numbers and pay fees in order to carry on business as landlords, to sort of weed out the bad apples from of the landlord business, we would support it 100%. But that's not really what's proposed.

First, we allow the municipalities to continue to ban second units if they want to. If they want to allow them, they can set up the same kind of unreasonable restrictions on the creation of these units. If some units manage to get through that bureaucratic maze, we have a registry that says they're there.

1040

What happens to the tenants of these units if the landlord forgets to apply for registration or if the registration gets revoked? Are these people even going to be entitled to present their cases in court, or are they just going to be considered to be occupants of illegal units, ordered by the municipality to leave?

The registry seems to talk about a concern for the health and safety of tenants but doesn't really address it in any meaningful way. We're concerned about the health and safety of tenants as well, and we think the only realistic way to protect that health and safety is to recognize that the people who live in these units are tenants like everybody else. They have the right to enforced municipal or provincial housing standards, without the threat of eviction by the municipality. I can tell you, the threat of eviction by the landlord for people who make these kinds of complaints is real enough that it discourages many frivolous complaints.

What is being suggested is that we have a whole bunch of different classes of apartments without any real distinction between them. We have the existing legal apartment, we have the pre-November 16, 1995, legal apartment, we have the registered apartment, we have the non-registered apartment that would otherwise be legal, and we have the illegal apartment. How do you know when you look in the *Toronto Star* and see "apartment for rent, \$600," which category you're in and what exactly your rights are, and what's the point of having all those different categories? It's confusion for landlords and tenants, a waste of municipal resources, which are getting scarcer by the day, and it doesn't do anything to protect health and safety.

I'd like the members of the committee to recall that the apartment-in-houses provisions that were in the Residents' Rights Act were a compromise enacted by the

provincial government after a long series of consultations with all kinds of people from all kinds of interests. It placed modest restrictions on municipalities' zoning power. It didn't solve the housing crisis, but it added some new protection to tenants who were facing housing options that were shrinking and it provided new opportunities for small-scale investment in rental housing.

The Bill 20 approach turns back the clock and adds a few little decorations, but it's really an attempt to justify turning a blind eye to a serious social problem: the lack of affordable housing.

There is a clear provincial interest in the provision of affordable housing for people who live and work in Ontario. Our economy can't grow if people don't have places to live. But some municipalities, including the city of Etobicoke, would prefer that their neighbouring municipalities take on the burden of supplying schools, parks and social services to low- and moderate-income people, and they attempt to use land use policies to keep out low-income housing in many ways, even in what I would suggest has to be the most innocuous form of low- and moderate-income housing: the second unit in a house.

That's why it's necessary for the province to take action and restrict their abilities to impose these restrictions. Without an authoritative provincial statement that zoning bylaws can't be used to exclude people based on income or can't be used to regulate the relations between people who live in a building with each other, certain municipalities will keep trying to do so, and all this does is put pressure on other municipalities to accommodate those who are excluded by that municipality.

We recognize that the present government is trying its best to distance itself from the actions of the previous administrations, but we hope the committee will remind the government that not everything done in the last 10 years has to be scrapped.

The Residents' Rights Act provided something for tenants, it provided something for landlords, it provided something for the general public. If you recommend to the government that it repeal it just to make some kind of ideological point, I think that's encouraging the government to abuse its legislative power, and we hope you recommend that it doesn't.

Mr Gerretsen: I hope you're right on that last point, but I'm not sure they aren't trying to make a point. As the last speaker indicated, there are more administrative problems in this whole area than legislative problems.

The one question I want to talk to you about is this whole notion of registration of second units. I would like you to expand on why you're against that. It seems to me that this gives protection to the tenants as well. We're against this whole notion of outlawing the second units at all, that they're no longer allowed and making it a municipal decision, because once the right's there, it's there and it shouldn't be taken away. But what is really wrong with registration? I just haven't found that argument to be quite convincing.

Mr Hale: I guess there isn't anything inherently wrong with it, but it's kind of useless, in my view. There are health and safety concerns in all rental housing. The tenants who live in the two-unit houses are going to be a small minority of the tenants in any municipality, or in

most municipalities, I would expect. So what's the point of registering the owners of a small, select group of apartments and leaving everybody else just to do their own thing?

We already have a system of rent registration. Then we set up this whole separate register and we empower the municipalities to set up this separate registry for one little, narrow class of apartments. It doesn't make any sense. It just seems to me to be a form of bureaucratic harassment in order to discourage people from doing this, when you get right down to it.

Mr Pat Hoy (Essex-Kent): Thank you very much for your presentation. It has some opinions that are slightly different than others who have talked about second-unit housing, or basement apartments, whatever phrase you want to use. However, I want to make a comment. The notion in a negative way against these units is maybe not as strong as it could be, the issues of parking, number of children.

I'm sure you have likely been through areas we'll call affluent that have three-car garages, and yet that very same family is parking on the street with their fourth and fifth car. I've seen it myself.

So that notion doesn't hold water with me, nor does the number of children, provided that the number of children individuals have is a choice of their own. Of course, the accommodations would have to suit the size of the family, I would have to say.

An example I know of is an uncle of mine who had the good fortune, he and his wife, of having four sets of twins. That's not predictable, that you're going to have twins on every occasion.

Mr Gerretsen: Thank goodness.

Mr Hoy: I find those particular arguments not to be very valid at all.

Mr Hale: Those seem to be the main arguments against intensifying occupancy.

Mr Hoy: I don't find it is a valid one, I want to say to you. And I think your question to the government as to what's going to happen with the registry, the non-registering of some units and whether clients within those units would be able to go to court, is a very good one for the government to consider. You call it a legal limbo, and I think it's quite valid.

Mr Howard Hampton (Rainy River): I'll ask you the same questions I've asked a number of other groups that have spoken on this issue. Regardless of what the government does, whether it continues to provide for second units or whether it in effect takes away the legal status, the legal framework for second units, my sense is there will be more second units. Whether they're legal or illegal, there will be more second units, because there's such a great demand for this kind of housing and there's a potential supply of it and the potential suppliers of it probably need additional income themselves. Would you agree with that?

Mr Hale: I think that's probably true. I think that the overall legal regime is going to influence how many there are and that if you have a supportive legal regime, there's going to be more, and if you have an atmosphere of cracking down on them more, you'll have less. But there are still going to be a lot out there, whatever the law is.

Mr Hampton: It seems to me that what really turns on this law is that if their legal status is taken away, we will have potentially hundreds of thousands of people living in the province who may be living in very unsafe conditions, from the perspective of fire safety, electrical safety and those sorts of things, and they will have no way to enforce the upgrading of those very important safety standards.

Mr Hale: Right. That's a very large concern of ours: apart from the lack of security of tenure, the lack of an ability to make complaints to municipal authorities or provincial authorities about the state of the housing. That's really where you're going to get this upgrading from. When the tenants who live there have concerns, either they'll address them with the landlord, or if the landlord won't address them, they should have somewhere to go.

1050

Mr Hampton: In effect, what the government's doing is sort of creating a second class of citizenship. The government's saying: "We know these apartments are going to be created. We know there's going to be a demand for them. We know that some other people will provide them, will supply them, because they most likely need additional income as well." But the people who live in them essentially won't have the citizenship rights that other folks have to ensure that they're living in a healthy and safe environment. Would you agree with that?

Mr Hale: I think generally, yes.

The Vice-Chair: Ms Churley, do you have anything to add? You have half a minute here.

Ms Churley: No, thank you.

The Vice-Chair: Mr Baird.

Mr John R. Baird (Nepean): Can I have her half-minute?

Ms Churley: No.

The Vice-Chair: No? You have three minutes.

Ms Churley: And I'm timing you.

Mr Baird: The issue I want to deal with is the issue of local autonomy. I took a great interest in Mr Gerretsen's comments that the Liberal Party was against this. I noticed in reading the minutes from the Bill 120 hearings that they had voted against this piece of legislation when my colleagues from the New Democratic Party brought it in. In fact, one said, Joseph Cordiano said in the hearings that it was using a one-size-fits-all solution right across the entire province.

I guess one of the issues coming in is the ability for the local governments to set local priorities and that they're best able to know what goes on in their own communities and best able to make that determination. They're the elected representatives who are the closest to the people. There's more of them and the community generally speaking has better access to them, because simply the ratio is smaller. I know that's certainly the case in my community. What are your thoughts on that?

Mr Hale: I think I addressed that in my brief. Tenants and people in general don't see these municipal boundaries when they're out looking for a place to live. If these kinds of apartments are excluded from the city of Etobicoke, then people are going to look for them in Mississauga or the city of Toronto or the city of York. So what

it is in a way is the more affluent municipalities sort of excluding people and pawning off those potential social problems and the costs associated with that on to other municipalities that are more willing to take it.

That's why the province has to step in and say, "There's an overall provincial interest here in the provision of affordable housing for all the people of Ontario." I think it's a wider interest than the municipalities. I mean, the municipality can regulate the width of the streets and the width of the lots and the height of the houses and all that stuff, but that doesn't mean that they should be able to say this whole group of people can't live in this municipality, and essentially that's what they're doing with these kinds of restrictive legislation.

Mr Baird: Just on one quick point, Mr Gerretsen brought up the issue of, wouldn't the registry created in municipalities help tenants being able to ensure that safety standards are met? I would certainly agree with him. What are your thoughts on that?

Mr Hale: Well, you wonder how many municipalities are going to really put any substantial investment into this registry. Are tenants going to be aware that the registry is even there? What's the purpose of the whole thing? My view is it's just a decoration and the present government can say, "Well, we're not going with the old policy, which everybody realized wasn't too good. We've got this new policy which has this registration feature," but it's not really useful for anybody.

Mr Baird: I suppose the details would be the administration of it, which is I think probably a fair statement.

Mr Hale: What we would see is if tenants have the right to call up the municipal inspector and say, "My place is unsafe, I think. Will you come and inspect it?" without the fear of the municipality evicting them, that's how you're going to get the safety upgrading, because these are the people who have the concern.

The Vice-Chair: Thank you very much. We've appreciated your presentation this morning.

Mr Gerretsen: On a point of order, Madam Chair: I'm, first of all, very gratified to hear that Mr Baird listens to every word that I say here. It's certainly gratifying to hear that.

Ms Churley: He's learning a lot.

Mr Gerretsen: But I think I should also point out that once a right is given to an individual, it's much more difficult to take it away from that individual, and that's the major difference between our position now and the position then. But of course Mr Baird and I weren't here.

The Vice-Chair: Excuse me. Mr Gerretsen, I don't know that it's a point of order.

Ms Churley: Excuse me, Madam Chair. I have a couple of questions. I'd like to ask if the parliamentary assistant to the Minister of Environment and Energy, Dr Galt, has tabled a list of stakeholders, which he told us about on Tuesday, February 13, who he'd met with the previous day.

The Vice-Chair: In response to your question, the secretary is now checking with his office. To the best of his knowledge, he has not yet received them.

Ms Churley: But they are coming, to your knowledge?

The Vice-Chair: To the best of my knowledge.

Ms Churley: Okay. My second question is, I asked yesterday if the Ministry of Municipal Affairs and

Housing could table the list of stakeholders he had met with during his consultations re the draft Planning Act.

The Vice-Chair: I would like to forward that question to Mr Hardeman. He's the PA to the ministry.

Mr Hardeman: We are preparing that list and it will be forwarded in due course, hopefully very quickly.

Ms Churley: Thank you very much. Could I just check with Dr Galt, because I assume that he knows the answer? You are tabling the list of stakeholders you met with?

Mr Galt: We did not agree to that on Tuesday when you requested it. I said I would look into it, and we are prepared to provide an overall list of all of the stakeholders who have given input, whether it be to staff or to the political route or to whichever ministry. There is an overall group that we will provide.

Ms Churley: But you are not prepared to provide the specific list that you yourself brought up in this committee whom you said you met with on Monday afternoon? It's that list that I'm interested in, because that is what you yourself specifically talked to this committee about, which is why I would like to see that specific list.

Mr Galt: I made reference to who I was meeting with that day. I don't think it adds any value to this committee in the hearings to be coming up with the details of who we met with and which ministry and which staff met with. I think it's an endless, ongoing request. I think the overall list of all the stakeholders who have contributed to this government should be quite adequate.

The Vice-Chair: Thank you.

Ms Churley: Madam Chair, I'm not satisfied with that answer. The parliamentary assistant made it very clear himself that he was extremely proud of the meeting that he held with these stakeholders, which included environmentalists. He talked to this committee—indeed, bragged to this committee—about how environmentalists approached him after the meeting and told him what a good job he had done on reaching consensus. I think, given some comments made yesterday about overall perception, real or not, about this government's consultation, if you have indeed met with a broad variety of the stakeholders, why not submit that? What are you trying to hide? What are you afraid of?

Mr Baird: Point of order, Madam Chair.

Ms Churley: I would think that you would like to have us see this list.

The Chair: Point of order?

Mr Baird: I would ask you to rule whether this discussion is related to our hearings on Bill 20. We have agreed to meet to consider Bill 20. I don't believe this is under the purview of the committee's deliberations. We have some witnesses who have taken a tremendous amount of time out of their day to appear before us and prepare presentations, and I would suggest that this is not under the purview of the committee and to move on.

Mr Gerretsen: But it's a point that was raised by your own member.

Ms Churley: He raised it in this committee, not me.

The Vice-Chair: Excuse me. The hearings are held so that we can have witnesses and delegates come forward and make presentations. If we would like to continue this

discussion at the end when all of the scheduled participants have been here, prior to breaking at lunch, we could do so.

Mr Baird: Madam Chair, I'd like you to rule, though, if this is topical to our discussions.

Mr Hampton: On that point, Madam Chair: It seems to me if you're going to rule, you at least ought to allow some discussion of the point that is under consideration.

It seems to me that the parliamentary assistant came to this committee, and in front of witnesses stated that he'd had a very successful meeting and that there were all sorts of stakeholders. We asked if the list could be provided. We were told yes, it could be provided.

Mr Baird: No, you weren't.

Ms Churley: You'd look into it.

Mr Hampton: You'd look into it, and you've just indicated that, to the best of your knowledge, that is being provided. We'd simply like to know, when is it going to be provided and how detailed is it going to be?

It seems to me that as part of democratic debate, someone cannot come to a legislative committee, make statements—

The Vice-Chair: Mr Hampton, excuse me, if you don't mind. I have requested that we proceed with the hearings we're at this morning. If we would like to discuss this prior to breaking for lunch, I would be pleased to add it to the agenda at that time.

Mr Hampton: It seems to me, Madam Chair—

Mr Hardeman: Thank you, Madam Chair.

The Vice-Chair: Now I would like to call forward, please, the next delegation, from the Ontario Professional Planners Institute. Sorry, the city of Etobicoke, Laurie McPherson and Bruce Ketcheson.

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Mr Hampton: On a point of order, Madam Chair: I believe Mr Baird requested a ruling from you.

The Vice-Chair: Not to debate it further, but I also recall that you asked us to come back to the point of discussion, which we were doing. I have ruled that if we would like to stay behind after all delegations this morning, we'd be pleased to add it to the agenda and discuss the issue at that time. The people here this morning are here to make presentations and I would like to carry on with those presentations.

Mr Hampton: On a point of order, Madam Chair: I think if you want to defer it, you'll need unanimous consent for that. A point has been raised.

Mr Murdoch: The Chair's ruled. Let's get on.

The Vice-Chair: I am ruling that it is not a point of order and it does not require unanimous consent.

CITY OF ETOBICOKE

The Vice-Chair: I would ask then that the participants who are before us now proceed. We do welcome you to our hearings. Just so you are aware, we do have a 25-minute time allotment, and during that time allotment you're free to make your presentation. If you would like questions and answers, if we have time at the end, the question and answer period will be divided evenly between the three parties.

Mr Bruce Ketcheson: Thank you very much, Madam Chair. I might add, I wish I was a member of the Ontario

Professional Planners Institute, but unfortunately I'm a solicitor.

Interjections: Oh, no.

Mr Hampton: Let us go back to our debate then.

Mr Ketcheson: That wasn't my presentation.

Mr Gerretsen: It's better not to admit that.

Mr Ketcheson: Well, having made that admission, my name's Bruce Ketcheson. I'm here on behalf of the city of Etobicoke and I've got with me Laurie McPherson, who's the director of policy planning for the municipality.

We thank the committee for the opportunity to allow us to come forward on behalf of Etobicoke and make some remarks to you concerning Bill 20. We have circulated with the clerk of the committee a staff report which basically outlines the comments of the municipality.

Basically what I can tell you is that Etobicoke supports many of the proposals contained within Bill 20. We think it's a useful initiative. It recognizes and enhances local planning autonomy and it also provides important reforms in terms of trying to streamline the planning process.

There are four areas within the bill that we want to comment on this morning, and these are summarized, if you have the report, on the very first page under the section "Recommendation," and those four points basically are what we're going to be addressing.

Very briefly, the first of the points relates to the proposed changes to the appeal process involving committee of adjustment or council decisions related to minor variance applications. That really is the major area of concern for the municipality.

As you're probably aware, under the Planning Act for many years we've had a system whereby an individual could go before council or committee of adjustment and request a minor variance from a zoning bylaw, and a decision would be rendered after a public hearing. Once that decision had been issued, there was an appeal right to the Ontario Municipal Board that was available, not only to the applicant, but to any other party who had participated at that time.

As a municipal solicitor, I've appeared before the board on numerous occasions with respect to minor variance appeals. I've gone for the municipality, I've gone for private property owners, and it's been my experience that this system has worked quite well. In the city's view, it would be a mistake to remove approval or appeal powers from the board and to transfer them down to the local planning level.

Etobicoke council does not want to get involved in any way with having to adjudicate appeals coming out of minor variance applications at the committee of adjustment. I think the fundamental concern they have is that they are a political body. They have a responsibility to enact the bylaw, they have a responsibility to respond to local concerns expressed by the community in a political sense and they don't have the expertise or the resources to take on essentially what is an adjudicative role of appeal.

The Ontario Municipal Board, in my view and in the view of the people I'm speaking for this morning, represents a very important safeguard in the planning

process. It's an independent tribunal. It's got expertise in terms of determining issues which are essentially technical planning issues; they're not political issues. The board should be allowed to carry forward that function which it has performed for many, many years. There's a very strong concern at any suggestion that the municipality, the local council somehow should become involved in terms of the adjudication of appeals coming out of the minor variance applications.

I might note as well, in terms of the sections in the bill which talk about the process as to how this would be contemplated to be done, in terms of filing of appeals, submission of briefs, it would be very cumbersome for a municipality to try to respond within the time frames being proposed under the bill in terms of dealing with appeals that might be brought forward to council for determination.

Again, because of the political nature of council's function, there's a real concern here that if you ask the municipality, the local council to adjudicate on these types of planning appeals, there could be a perception of bias, because again, these are politicians and they're being asked to make planning decisions when their main function is one of passing bylaws and making political decisions.

There's another significant concern related to these proposals, and that relates to the suggestion that the local municipality should be required, on an appeal to the Ontario Municipal Board, to pick up the cost for the board's proceedings. As I can certainly say to you, Etobicoke appreciates the desire on the part of the provincial government to try to streamline its proceedings to try to control costs. I can tell you, in terms of the local municipalities, that they had the same constraints in terms of their budgeting, which requires them to try to streamline their process and try to control costs. In both cases, whether it's the local municipality or the province, they're dealing with taxpayer funds.

In terms of the minor variance appeals to the board, these basically are private disputes; these are disputes between property owners. When an appeal is started and sent off to the Ontario Municipal Board, in terms of Etobicoke's perception of it, that really should be the responsibility of those who cause the appeal and those who participate in the appeal to carry the cost of. The municipality should not be saddled with the burden of carrying the cost for what is basically a private dispute.

In fact, one of our concerns is that if you say to people, "The city will pay the cost for your appeal," you're simply encouraging people to file appeals. Whether they have reasonable grounds to bring the appeal forward or whether the appeal is totally frivolous and vexatious, there will be no burden to them in terms of the cost; the burden will really come out of the public taxpayer.

I can appreciate, in terms of the board's process and in terms of the government's pocketbook, that there is a need to try to control these costs, because again, it is being funded publicly. I'd like the committee to recall and remember that the city, of course, pays the cost for the committee of adjustment process and at the current time the province pays the cost for the board process. It

would be our submission to you, in terms of looking at the existing system and trying to make it work better, that one thing that should be considered is raising the cost for filing an appeal, which has to be paid by the party who launches the appeal.

Another matter which has been addressed through the bill and which we think is quite useful is enhancing the ability of the Ontario Municipal Board, when an appeal has been launched, to dispose of that appeal without the necessity of going through a full hearing. Whether that's done through mediation or through motions to dispense with frivolous and vexatious appeals, it's one way to try to clear the backlog and the traffic jam which has built up over the years in terms of the board's dockets.

A third area which should be explored—and this probably goes more towards the board's own internal processes—is to enhance the ability to award costs against an unsuccessful party if it's found that they brought an appeal forward for improper purposes. The emphasis, the incentive, the onus really in our submission, in terms of costs, should be on those who caused the proceeding to be held and those who bring the matter forward for hearing before the board.

One other matter I might just note in term of the proposed appeal process under Bill 20 is that from a legal perspective, it's probably open to challenge because different rights of appeal are being provided depending on the nature of the committee which hears the minor variance application.

As this bill is structured now, it's open to council to take on the role in first instance as the decision-maker with respect to a minor variance application. Alternatively, council can have a committee of adjustment with a council representative, or more than one representative, on it. In both of those cases, of course, it's proposed that the decision of the committee or council is final, that there are no appeal rights. If, however, the committee of adjustment is composed with no council representation, no political element to it, then we have an appeal remedy. It's my submission to you that the courts would probably strike down that type of mechanism because it provides unequal appeal rights to parties depending on the type of committee or type of council composition that is being put forward to deal with the application. I think there would be serious concerns, with respect to natural justice considerations, about having appeals available in some cases but not in others.

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If an applicant were faced with a situation of knowing, for example, that there was no appeal right because you had to go before council or before a committee with a political representative on it, if they were concerned that they weren't going to get fair justice before the committee or council, probably what would happen here is that people would decide to start filing zoning applications in lieu of minor variance applications, because they know with a zoning application, regardless of what the council decision is, they're going to have a right to take their appeal to the Ontario Municipal Board.

I don't think that would be in anybody's interests, because as you're probably aware, in terms of zoning process, at least in Metro, it can be a very long and

costly endeavour. One of the main reasons we have minor variance applications is to provide a less costly and faster route in terms of dealing with planning disputes or zoning disputes.

The second matter that I want to touch on briefly simply relates to a request for clarification of one aspect of the bill which is dealt with under section 9. This deals with the granting of exemptions from the necessity for approval of an official plan or an official plan amendment by either the Minister of Municipal Affairs or the approving authority. We've gone through the wording of the bill and, while we support the notion of these exemptions being provided, it's not clear to us as to how these exemptions would be applied for or issued or at what point in the process this would have to be dealt with in terms of the processing of the official plan documents.

So we simply ask the Ministry of Municipal Affairs staff or the Clerk of the Legislative Assembly, I suppose, whoever drafts this material, to give some thought to try to clarify exactly how that exemption would be dealt with.

The third matter I want to talk about briefly relates to section 13 of the bill, which deals with the information that must be filed in order to start the time frames running under this process for dealing with applications. As you're probably aware, under Bill 20 what is established is a fairly restrictive set of timing requirements under which the municipality, once it receives a zoning application or development proposal, has to deal with it. As I understand it, Bill 20 reduces in half many of the time frames that were established under Bill 136 in terms of the city's turnover of development applications.

Etobicoke has no problem with working with these shorter time frames—and, again, we accept that there's a need to streamline the process—but the one area of concern that we have relates to what starts the clock running. Under this bill, there is discussion about the notion of prescribed information. In other words, there will be a regulation, as I understand it, enacted under Bill 20 which will say, "Here is the type of information you as an applicant must file in order to get the clock started."

Under the old planning legislation that predated this, this information could be defined not only in terms of the regulation that was passed by the province but also in terms of information requirements that the municipality itself would set through its official plan and procedural bylaws. Our concern basically is that there may be information that council or staff for the municipality feel is essential in terms of responding to an application that may not be required as part of this prescribed information. The municipality doesn't want to be faced into the situation of having to deal with an application if it considers that the information base is incomplete.

The last matter I want to talk about, very briefly, relates to accessory units. I heard the presentation by Mr Hale and I can tell you that my client actually has been quite proactive in terms of providing housing opportunities within its bounds and has no interest in trying to simply exclude accessory units within any area which is appropriate to carry them within the municipality.

Etobicoke has always been concerned, like a number of other municipalities, that it should, in terms of carrying out this obligation, have appropriate powers to regulate, to inspect and to establish safety standards for what are essentially new units being carved out of existing dwellings. In that regard, we find the provisions of Bill 20 are quite appropriate and we support them.

The only concern that we would express to the committee for consideration is one related to timing. If you look at the transitional provisions which are set out under Bill 20, what they say is that from the time the bill was first enacted, November 16, 1995, from that time forward no accessory unit will be permitted as of right unless the municipality provides for it.

From a legal point of view, that creates a problem because Bill 20 currently is not in force and the municipality remains subject to the current Planning Act, which does provide for accessory units within these residential areas. In fact we have had a situation now where a building permit has been issued after November 16 to a property owner who wanted to create an accessory unit in his basement apartment. If Bill 20 in its present form is approved, then the question will come up as to what is the legal standing of that property owner in terms of his building permit. He got the permit after November 16, yet in terms of the wording of this legislation, he wasn't entitled to it.

The easy way out of this conundrum would be simply to indicate that Bill 20, in terms of this restriction, will come into force at the time it's proclaimed by the government. Up until that time, anyone who gets a building permit or occupies one of these accessory units should be simply entitled to carry on with a legal use or occupation or construction of the unit.

Those are my remarks. If there are any questions, I'm going to hand them over to my friend Ms McPherson here to respond.

The Vice-Chair: Thank you very much. We have 12 minutes remaining. Each party will be entitled to share that time equally. I would like to start with Ms Churley.

Ms Churley: Could I change the rotation here? I can't find my document. Does the clerk have an extra one? Thank you very much.

Are you the city solicitor?

Mr Ketcheson: I like to think I am and I guess I am.

Ms Churley: That wasn't clear to me. Does the city of Etobicoke allow basement apartments?

Mr Ketcheson: Currently they're allowed in accordance with provincial legislation.

Ms Churley: Yes, but prior to that legislation, as a city council, was it one of the municipalities that allowed them?

Ms Laurie McPherson: Maybe I can answer that question. The city had a new official plan that was approved in 1992 that would allow accessory units under certain conditions. Those provisions were deferred by the province when they approved the official plan because of Bill 120 at the time and the provisions of that, which were coming into effect. To date, those provisions are still deferred, so technically, no, except in areas of Etobicoke where the bylaw would permit them. There are some areas in our lakeshore that would allow them, but

in the rest of Etobicoke, because the official plan has been deferred, technically, no.

Ms Churley: So how long has the official plan been deferred?

Ms McPherson: It was approved in 1992. The provisions for accessory units were deferred.

Ms Churley: For what reason?

Ms McPherson: Because Bill 120 was coming about and some of the provisions that we put in our official plan were not considered appropriate by the province at that time. When Bill 120 came in, they were permitted anyway and there wasn't really a great need to deal with the deferral, but now it will have to be dealt with.

Ms Churley: So now it will be dealt with again and at this point you don't know if the city council will approve or not approve.

Ms McPherson: Yes, it is a permissive policy, given certain conditions, and one of them was the right to inspect, and the provisions for registration will now allow that. We have made some headway with the fire regulations recently, so there were a couple of other provisions which would have to be fulfilled.

Ms Churley: Do you have concerns about the bureaucratic process of the Planning Act? It appears to me that this bill focuses mostly on trying to speed up the process, deal with red tape, limit public participation, limit time periods for notice and responses. But it doesn't deal very well and we've heard on several occasions that a big problem with the time delays is actually the province and municipalities themselves, because they don't have in some cases—and now with downsizing and cuts to the municipalities of up to 47% from the transfer payments, a huge problem in delays within the system is actually at the bureaucratic level, getting the information out, doing the work that needs to be done. Would you say this is true, in your experience?

Mr Ketcheson: In my experience, what we've seen in Etobicoke actually is a decline in development activity over the last four or five years. My own personal observation would be that there probably is surplus capacity available within the existing resources to deal with development applications and to move them forward.

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I know Etobicoke council is quite committed to trying to streamline its process so that those who might potentially be interested in making an investment in the municipality don't have to wait for an undue period of time. It's a very competitive market out there, when you can find someone who's interested in doing something, and Etobicoke wants to be in that competition and wants to be in there effectively. Even with resources being cut back in terms of government restraints, Etobicoke, I think, is quite confident it can still meet the streamlining requirements without cutting off opportunities to the public to be notified and to participate.

Ms Churley: Have you had trouble—

The Vice-Chair: Excuse me, Ms Churley, thank you very much. Mr Ouellette.

Mr Jerry J. Ouellette (Oshawa): Thank you for your presentation today. I have a couple of quick questions. I'm glad to hear that your municipality is handling the basement apartment issue very well. I think that's repre-

sentative of the community in general. But I'd like to know what your feelings are about the possibility of a loser of an appeal covering the cost of that appeal. What do you think about that?

Mr Ketcheson: In the civil litigation system, in the courts, costs usually follow the cause. That's not an unusual principle, and the Ontario Municipal Board has not, in terms of its traditional practice, awarded costs against a losing party. The only situations where they've awarded costs have usually been where someone is active in such an outrageous manner that they wanted to punish them by a cost award. Having said that, given the realities of scarce resources, that may be one area that the board should be looking at. It's not unusual in terms of the court system, and I don't think it's offensive in terms of the planning system that the board's following.

Mr Ouellette: So you would support a position like that?

Mr Ketcheson: Yes.

Mr Ouellette: Also, in regard to the minor variances, should the bill pass in its present form, what percentage increase or change would you expect in rezoning applications?

Mr Ketcheson: That's very hard to estimate.

Mr Ouellette: Would it be a direct—

Mr Ketcheson: Having acted for private property owners who have gone to the committee, I suspect that any property owner who was concerned that political influence might result in an adverse planning decision would decide not to go through a committee of adjustment process but rather to go through the rezoning application.

Certainly, if I was advising that client, I would say, "It's an important consideration for you to know that a political decision will not be the basis for the decision, it will be a planning decision, and if you need to go to the OMB to get the planning decision, you'll have an appeal right to do so." I suspect there will be a fairly significant increase in terms of applications that might have otherwise gone through the committee of adjustment ending up going through a rezoning process.

Mr Ouellette: And that ratio would be one to one for everyone that typically went through?

Mr Ketcheson: I could see it 50%: 50% of the current caseload that goes through the committee of adjustment might otherwise go through the zoning process.

Mr Murdoch: Just one thing I'd like to point out—I thank you for your brief and some of your good suggestions and I hope the parliamentary assistant will look at some of your suggestions—just because this bill passes, it doesn't mean there's not going to be basement apartments. I mean, we seem to get that perception that if this bill passes, there won't be any more basement apartments. All it's going to do is allow municipalities like yourself to decide where they're going to go.

The problem is that with existing stock, you have some problems there if they weren't designed for that. It doesn't seem that people come here time after time saying, "Oh, well, we got to be able to do that." But I think the power has to go back to the municipalities, because when you create new stock, you can decide whether that's where you want basement apartments to

go. I just want to get that clear because it seems every time somebody says, "It's not going to permit any more basement apartments," that's not right.

Mr Ketcheson: If I can just respond to that statement, essentially what we're looking at is retrofitting existing dwellings. The concern for the fire department or the concern for the property use inspector is that if you're going to take space away from the existing dwelling and convert it into an independent dwelling, you have to make sure it's of a sufficient size, that there are a sufficient number of accesses and exits to it, in order that the occupants of that new dwelling within that existing building are going to have a reasonable atmosphere or situation for their living.

The Vice-Chair: We actually have a half a minute left, if you have a very short question, Mr Hardeman.

Mr Hardeman: On the issue of the timing of the apartments in houses, I just question you whether the local bylaw to deal with the issue following the passing of Bill 20 would not be able to deal with those that fall in the realm of having been approved beyond the—

Mr Ketcheson: The legality in terms of that unit would be established by the provincial legislation, so the municipality would have no power to legalize a unit which was otherwise illegal under the provincial legislation.

Mr Gerretsen: Just to follow up on that point, now that the second units were legalized under 120, about 100,000 of these units, and many of them are located in subdivisions where the houses are the same, is there not something inherently unfair, if you've got two houses that are side by side and somebody in one house under the current legislation has put a second unit in, it is legal, and now the next homeowner has got exactly the same circumstances there but didn't put the unit in and that person can't put that in—do you find anything inherently unfair about that?

Mr Ketcheson: Madam Chair, no, I don't.

Mr Gerretsen: Oh, well, thank you.

Ms Churley: If you owned the house, you would.

Mr Gerretsen: Yes, I mean, it speaks for itself. Dealing with the earlier point, just from your own practical experience, what's the cost differential between applying to the committee of adjustment or applying for a zone change?

Mr Ketcheson: I think I'll turn that one over to the cost expert.

Mr Gerretsen: I'm not talking about the municipal cost. I'm talking about from your experience in acting for people as to what it would cost to—I'm not looking at it from a fee viewpoint, every municipality is different, but just from an overall cost viewpoint.

Mr Ketcheson: From my experience in acting for clients who have gone through both routes, you're probably looking at at least four times the cost to go through a rezoning application by the time you finish it.

Mr Gerretsen: I'm sorry, I didn't mean to cut you off, but time is so limited, I want to take advantage of every moment we've got.

"Frivolous and vexatious" and how often this is applied by the OMB: We tried to get somebody administrative from the OMB here but we were stonewalled by

the government. They didn't want anybody here to give us that information. It's a fact, the record will show that. From your own experience, how often has the OMB utilized that section and in effect dealt with appeals in a very summary fashion?

Mr Ketcheson: My experience is it has been very rarely used because the board will bend over backwards to give the opportunity to a party to appear before it and put forward a planning case. The board is very sensitive about not taking away appeal rights unnecessarily from parties. Having said that, I think in the last number of years we have seen more willingness on the part of the board to dismiss appeals without a full hearing because of frivolous or vexatious concerns.

Mr Gerretsen: Is Etobicoke a member of AMO?

Ms McPherson: Yes.

Mr Gerretsen: And you support AMO in all its positions?

Ms McPherson: Some of the positions. We have a different slant on some of them.

Mr Gerretsen: Because so far we haven't heard from anybody yet as to who's in favour of not appealing a minor variance decision to the OMB, and I'm kind of anticipating that the AMO position this afternoon will be that they aren't. So you don't always agree with AMO.

Ms McPherson: I think AMO has put forward some options and some of the options we would support.

Mr Gerretsen: We'll look forward to that then.

The Vice-Chair: Would anybody else like a question?

Mr Gerretsen: Oh, I've got all sorts of questions. Just a minute now. Cost to parties: How often is—

Mr Galt: Come on, let Pat ask it.

Mr Gerretsen: Do you want to say it?

Mr Hoy: He can't speak for me.

Mr Gerretsen: How often does the OMB award costs?

Mr Ketcheson: Just based on my own experience, it would be probably in the region of 1% to 2% of the cases that they hear.

Mr Gerretsen: Right. From what you've stated, there's nothing wrong with the party that's actually making the application and being a party to the proceeding bearing the cost rather than the municipality?

Mr Ketcheson: That's right. Again, the parties who initiate those proceedings through the appeal—

Mr Gerretsen: Should pay the costs.

Mr Ketcheson: —should take some responsibility as a user to carry the cost for it.

Mr Gerretsen: I totally agree. Thank you.

The Vice-Chair: Thank you very much. That is close enough, and I do appreciate that. Thank you very much for your presentation this morning.

ONTARIO PROFESSIONAL PLANNERS INSTITUTE

The Vice-Chair: I would ask that the Ontario Professional Planners Institute come forward, please. Welcome to our hearings process this morning.

Mr Philip Wong: Good morning, Madam Vice-Chair and members of the committee. My name is Philip Wong. I'm the president of OPPI, Ontario Professional Planners Institute. We are pleased today to present to you our brief

on Bill 20. With me at the table today on my right is Marni Cappe, chair of the Planning Act working group, and on my left is Ron Shishido, chair of the public policy committee.

We've provided you with a copy of the written brief, and I'd just like to give you verbal summary of it.

The Ontario Professional Planners Institute represents the professional planning community of Ontario. It is an umbrella organization that includes 2,200 planning practitioners from both the public and private sectors: provincial, municipal and federal employees, consultants, developers and academics. The diversity of experience provides OPPI with a unique opportunity or perspective from which to comment on the proposed legislative changes.

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OPPI has made significant contributions to the reform of planning in Ontario. As a major partner in the planning field, we look forward to continuing our involvement with the Ministry of Municipal Affairs and Housing and other stakeholders. We are pleased to see the government place the importance it has on Ontario's planning system as a part of its broad thrust towards greater prosperity for Ontarians. We too believe it can and should play an important role.

At the same time, the government should recognize that the planning system is not just about development control. It is about managing change and supporting responsible economic and social development. In other words, the purpose and result of Ontario's planning system parallel your drive to economic growth with fiscal responsibility. We will present our comments on key aspects of the legislation as they relate to the three stated purposes of the amendments:

- (1) To give greater autonomy to municipalities.
- (2) To streamline the planning process.
- (3) To protect the environment within the context of economic development.

With specific regard to municipal autonomy, OPPI supports the government's intent to give municipalities more decision-making power. We generally agree that the proposed changes will place the responsibility for local decisions where it should be. However, OPPI is concerned that municipalities may be unable to achieve this objective without adequate financial resources. Secondly, OPPI generally supports the measures which have been introduced to streamline the planning process, but we are concerned that tight time lines may drive the planning process, forcing decision-makers to take shortcuts which bypass good planning. We're also concerned that streamlining may diminish opportunities for valuable public consultation.

OPPI is particularly encouraged by the government's commitment to protect the environment within the context of economic development. The main impact on the environment will come through the requirements of the policy statements or through attempts to harmonize the environmental assessment and planning processes. With respect to the former, OPPI will comment at a later date; with regard to the latter, OPPI is disappointed that the new bill does not address integrating the two processes and proposes to work with the government on this important matter.

Certain specific comments on Bill 20: the first item, greater autonomy for municipalities. The Minister of Municipal Affairs and Housing, in introducing the legislation, described a new planning system that would give municipalities the autonomy they have asked for and deserved. The system is to be guided by clear and concise provincial policy statements which will be reflected in local planning decisions. The province's defined role in the planning system is of course linked to the level of autonomy municipalities can achieve.

The province has an important role in providing sufficient guidelines to all parties participating in the process. Clearly articulated provincial policies will be the first step. OPPI will be submitting a detailed brief on the proposed provincial policy statements, as requested.

In defining provincial interests, the Planning Act is useful in helping municipalities anticipate when the province may get involved in a planning decision. Changes to section 1 of the Planning Act give the Minister of Municipal Affairs and Housing exclusive authority to file appeals to the OMB on behalf of all ministries of the province. OPPI can support this change if the intent is to ensure that provincial interests are expressed as one voice. However, OPPI seeks confirmation that the government will develop a process to ensure the important and often unique interests of individual ministries are taken into account.

Section 2 of the Planning Act defines 16 provincial interests. We regret the disregard for social matters. OPPI believes the province has an undeniable interest in linking social development with land use decisions. We recommend that a specific provincial interest in social well-being be included in section 2.

In previous submissions on Bill 163, OPPI had conditionally supported the recommended change regarding municipalities and agencies "to be consistent with" provincial policy statements, rather than simply "having regard to."

In the context of enhancing municipal autonomy, OPPI accepts this government's decision to return to the original wording of "shall have regard to." A more immediate concern relates to the force and effect given to the policy statements by all players in the planning system. OPPI is expecting provincial ministries to interpret the policies fairly in recognition of the diverse geography and socioeconomic conditions across Ontario.

In reality, changes to the direction given and resources available to municipalities and approval agencies may prove far more significant than the specific wording of section 3 of the act.

Bill 20 generally promotes economic growth through changes to the planning system which are based on cutting red tape and eliminating obstacles to growth. For municipalities, one of the keys to successfully achieving growth through planning is the ability to adequately finance the system.

Sections 45 to 57 of the bill contain amendments to the Development Charges Act. OPPI urges the province in its upcoming review to allow for local flexibility in determining how and in what ways development will pay its own way.

More specifically, with regard to the government's commitment to link development charges with hard services only, OPPI is concerned that the government is overlooking the clear financial linkages between local planning approvals and the provision of community facilities and services, both capital and operating. OPPI recommends that the province consider secondary plans, watershed plans and infrastructure master plans to be eligible for funding through development charges.

Second, streamlining the planning process: Amendments to the Planning Act to streamline the approvals process most significantly underscore the government's commitment to bring in a system that is faster and less bureaucratic.

OPPI's principal concern is to ensure the new planning system allows for sound and informed planning decisions, with adequate opportunities for public consultation. In general, OPPI offers no objection to the province's streamlining initiatives provided there is a complete application with adequate technical information to support the proposal. Often, the prescribed information is not enough. OPPI recommends that the Planning Act be amended to allow individual approval authorities to determine what constitutes a complete application. This would affect sections 17, 22, 34, 51 and 53.

In this context, OPPI supports the shortened time frames for processing applications or appeals on planning decisions. However, we expect approval authorities to continue making planning decisions based on informed information and local problem-solving, not expediency.

Proposed subsections 17(9) to (11) of the Planning Act establish a new alternative process for official plans and official plan amendments to come into effect. Specifically, the minister or approval authority is given the power to exempt plans and plan amendments from the requirements for approval. OPPI recommends that exemptions be applied only to categories of applications, not on a case-by-case basis. To ensure fairness in the process, exemption criteria should be established through a public process which would enable appeals. Where the upper-tier municipality is the approval authority, conditions for exemptions should be included in the official plan. The province should establish a similar public process where it has the approval authority.

Bill 20 proposes a complicated structure to govern the activities of the committee of adjustment. Amendments to sections 45 and 45.1 of the act present significant problems in the understanding and administering of the decisions on minor variances. OPPI recommends that appeals on minor variances and consents to the OMB be maintained. So I think this point, Mr Gerretsen, is that we are not coming with a different position on this one. All forms of planning applications should be treated the same under the legislation.

OPPI does not support the proposed deletion of the public meeting requirements for plans of subdivision or consent. The public meeting plays an important role in informing the general public about the big picture in planning, particularly on greenfield sites that have been pre-zoned. In many smaller municipalities, land division is the first and only opportunity for people to become involved in planning decisions that affect their lives.

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Proposed subsections 17(24), 17(36) and 22(7) of the Planning Act provide for an automatic appeal of official plans and official plan amendments to the OMB without the approval authority being given the opportunity to review the referral request. Given the board's extensive experience in both the mediation and hearing processes, OPPI supports the concept of direct appeals on all decision applications. This previously was a role for the ministry.

However, in support of the objectives for streamlining and municipal autonomy, OPPI recommends that the OMB be required to direct the parties to try for a local resolution of the matter within a specified time period up to the date of the scheduled hearing. The local mediation process should not be used to further delay the OMB's consideration of a proposal. Evidence of such conflict resolution should be documented, but the details of any discussions should be without prejudice and inadmissible to the OMB, should a hearing eventually be required.

OPPI recommends that the role of the board be strengthened by ensuring that adequate resources continue to be available. We are concerned about the new planning time frames, the elimination of public meetings for subdivisions and consents, and the removal of the referral request option at the municipal level. OPPI expects that the government will continue to encourage and support the board's important role in applying alternative dispute resolution techniques such as mediation. It is essential that the board continue its historic role in reviewing planning decisions.

OPPI continues to support the need for land use planning to address environmental protection and enhancement of environmental health.

The current planning reform process offers a unique opportunity to strengthen both environmental assessment—EA—and planning through integration of the two approval processes. OPPI recommends the province pursue integration and seek solutions in partnership with OPPI.

Most official plan amendments include some infrastructure components that are subject to the EA process, example, roads, water, waste water, stormwater facilities.

Integration is appropriate because decisions made for infrastructure are intimately connected to community planning. The demand for infrastructure is tied to the distribution of population and employment, which are approved through official plans. Separating the two processes is not logical, and has not led to efficient and economically sustainable land use decisions.

Recommendations for new procedures and practices:

The above are specific comments on Bill 20. We recognize that implementation of the new legislation will require the development of new procedures and practices for planning in Ontario. We believe the government should form an implementation partnership between the Ministry of Municipal Affairs and Housing, OPPI, and selected municipalities to explore new, cost-effective and responsible ways of achieving good planning in Ontario.

We would like to offer a few suggestions.

(1) Process re-engineering. Reducing approval process cycle time: Undertake three case studies on specific

techniques which municipalities could adopt to achieve the legislated cycle time by selecting a region-county or city-township examples.

(2) Scoping of supporting documentation. Develop a reliable process for upfront consultations between the applicant and the municipal planning official regarding the scope and level of details of documentation required to support a development application.

(3) Initial mediation of appeals by OMB. Set up a pilot program with the OMB to develop an initial and quick mediation of appeals between applicant, municipality, and third parties.

(4) Provincial planning advisory committee. Establish a committee involving key stakeholders in the drafting and monitoring of provincial policies. Such a committee would contribute considerably to the community's acceptance and understanding of provincial policies.

(5) Integrate the Planning Act and Environmental Assessment Act processes. Set up a task force to explore short- and long-term solutions. The background paper currently being drafted by OPPI could serve as a starting point.

I would like to thank the committee for the opportunity to present this brief, and we are prepared to answer questions you may have.

Mr Hardeman: Just a small point of clarification. We've had a number of presenters putting forward the concern about taking away the public meeting for a plan of subdivision and an application for consent. I would just point out that in Bill 163 it was at the option of the minister through regulation to authorize those public meetings, and under the present system there is no authorization for a public meeting requirement for a plan of consent. I just wanted to straighten it out for the record. A number of presenters have made the point that we were taking away a public meeting for an application for consent. In fact, it never existed.

Mr Trevor Pettit (Hamilton Mountain): Thank you very much for your presentation. Relative to the "shall be consistent with" clause, it's quite apparent to me that you've reversed your position relative to Bill 163. I'd like you to elaborate a little more on that.

First of all, one of the groups the other day, I think the Canadian Bar Association—I stand to be corrected—felt that the "shall be consistent with" clause would result in far more legal battles because it hadn't yet been tested in court, as opposed to the "have regard to" language. Do you have any comments on that? Their statement was that the "have regard to" was clearly more definable than the "shall be consistent with" clause. I'd like you to comment on that. Also, by making that change, do you see that the province will be in effect having any disregard to environmental concerns?

Ms Marni Cappe: With regard to your question on what litigation or how much litigation might result or what the complications are from "shall be consistent with," I would trust the bar association to have a clearer judgement on that. I'm not a lawyer. But what we know is that "have regard to" is something we can live with. We have experience, we have case studies showing that there were good judgements made on the basis of "shall have regard to," which was one of the reasons contribut-

ing to our shift in position—I won't say reversal—and that's the next part that I want to address.

When we submitted our brief on Bill 163, we conditionally supported "shall be consistent with" on the basis that the provincial policy statements would not be based on a concept of zero tolerance. We also were predicating our support on the fact that implementation guidelines would be released in time for us to have a clearer understanding of the full intent and effect of the policy statements. As an institute we were disappointed that neither of those conditions actually came into being, and therefore we felt that in light of the emphasis on municipal autonomy, in light of our relative comfort with the case law on "have regard to," we would now support that clause.

Mr Pettit: Would you agree that the policy statements for Bill 163, along with all the hundreds of pages of guidelines, effectively stifled the local municipalities from making the local planning decisions they needed to make?

Ms Cappe: I would say that the policy statements now in effect under Bill 163 are more prescriptive and more directive for municipalities. I don't think I would choose the word "stifle."

Mr Pettit: On the whole, do you believe that Bill 20 will help streamline the planning process?

Ms Cappe: Yes.

Mr Gerretsen: I appreciate your presentation as well. It was very much in line with what Mr Lehman said earlier today, who I believe is a member of your institute as well.

I'm particularly intrigued by the new procedures and practices you've outlined at the end of your paper. I believe most of the problems we've had in planning is the lack of mediation and the administrative framework all the various parties play in.

I wonder if I could ask you a question about the public meeting process relating to subdivisions. We've already had an indication before the committee, and I'm wondering if you could confirm, that different municipalities deal with rezonings of properties in different ways. Some municipalities in effect have requirements that show in much greater detail what is actually proposed for the piece of property whereas other municipalities show very little detail.

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It's always seemed to me that it's only when people in an immediate neighbourhood actually know how a subdivision is being planned or actually get the plans of something that they really know what we're talking about. You usually don't have too many public meetings or much participation at public meetings that deal with general concepts rather than definite planning proposals. Would you agree with that? Is that the main reason you support the notion of a public meeting for a subdivision plan approval, so that people have something definite to react to, either positively or negatively?

Mr Ron Shishido: The decision to support the notion of a public meeting for subdivision was to address those instances where that was the only forum for the public to have a say in the process. In practice, municipalities endeavour to work with the development industry and the

public to try and piggyback the public meetings, so you may see a subdivision and a zoning public meeting concurrently. You'll notice in our submission that we're saying that where a rezoning as well as a plan of subdivision are the table, one public meeting only is necessary.

Mr Gerretsen: Do it at the same time, absolutely. What has your feeling been over the years: that public meetings have generally made a development a better development, or have they allowed greater opposition to occur and in effect delay development? I know that's a very general question, but do you have any comments on that?

Mr Shishido: My view is that if a proponent is really doing his homework in advance of that public meeting, he has gone to the various publics and tried to address their concerns so that when the public meeting does come it's only those very few issues put on the table. I think it's the isolated instance where a developer or the municipality will go into a public meeting without having done some advance preconsultation.

Mr Wong: It all depends on the concerns of the public. A lot of times you can resolve certain minor, insignificant things and improve the design through the public meeting process. By the same token, I tend to agree that there are instances where people abuse the process to delay the project. But I think you're going to get it one way or the other anyway, whether you have the process or not.

Mr Gerretsen: And it's better to have it up front than have it come through the back door, something like that.

Mr Hoy: On page 8 you were talking about the single voice or the one-window opportunity for the Minister of Municipal Affairs to make appeals and that you rather agree with that idea, but then you seek confirmation that the government will develop a process to ensure that other interests make their views known. Do you have any prescription for how that might be enforced or allowed?

Mr Wong: I'm sure everybody recognizes that different ministries, MNR, MOEE, may sometimes have different opinions from the Ministry of Municipal Affairs and Housing. What we're trying to say is that we don't believe the Ministry of Municipal Affairs and Housing should have a single voice and make the sole determination to appeal to the OMB. We want to ensure that there is sufficient input and opportunity for discussion among the ministries prior to the decision being made that it should be appealed to the OMB. I'd basically leave it to the ministries to work among themselves, maybe a working group, a task force or some kind of procedure to be established internally before that referral request is made.

Ms Churley: I congratulate you on your presentation. Your approach to integrated planning and community-based planning is something I believe very strongly in, and on the whole I agree with most aspects of your presentation, although I find some of it contradictory in terms of your position on "have regard for" and what you say at the bottom of page 7.

I'd like you to give a bit more detail on your concerns about affordable housing, the natural environment and social wellbeing, where you say you believe the province has backed away from some of those. Given that you also

say there are no boundaries when it comes to the environment, if there are no clear policy statements from the province on protecting the environment which municipalities can not only "have regard for" and toss aside but must "be consistent with," how can you do that with just clear policy statements the regions can totally ignore?

Second, have you been involved at all in the discussions which we understand are going on internally with the MOEE on changes to the EA?

Ms Cappe: I can answer the first part. I personally am not involved with MOEE, but perhaps members of our institute are? Yes, they are.

With respect to concern about the policy statements, I can just signal some of the concern. We have not finalized our brief, and as you can appreciate, our institute represents quite a wide range of members.

To date, the concern we have heard with respect to affordable housing is specifically that the term "affordability" never appears, a concern that the province has not retained an interest in affordable housing. That's the first part.

With respect to the natural environment, there are concerns that the policy statement as proposed now puts more natural features in a category where development may be permitted, subject to no negative impacts, rather than certain very important features which before were absolutely protected. What we are looking for is not necessarily going back to a whole range of absolute protection for features, but rather a framework that we hope might give municipalities more support where municipalities and regions choose to identify areas where they may want to absolutely protect features such as significant valley lands, which in particular have been shifted in the policy statement from a category A or highest protection to a second-tier level of protection.

That is something we'll be exploring. We do not have a final position on that yet. We still appreciate some of the flexibility underpinning the new policy statements but hope we can develop a framework that gives a little stronger support to municipalities in those areas.

Ms Churley: Coming back to the EA process, you say you are involved in consultations. What's your involvement in those consultations?

Mr Shishido: We've had some initial discussions, a number of representatives from OPPI have been down at the Ministry of Environment talking about broad principles in terms of looking at the Environmental Assessment Act and the Planning Act. The other initiative involving the two legislations is the task force that's been proposed by the regional planning commissioners, and that initiative is just getting under way, and that relates to class EAs and municipal infrastructure.

The Vice-Chair: Thank you very much for coming this morning. We've enjoyed your presentation.

Mr Gerretsen: I wonder if this is the appropriate time to refer this bill back to the minister for further review, taking into account all the comments that have been made, and ask for an immediate vote on the issue. I'm just raising that as a question.

Ms Churley: Move it. I would move it.

Mr Gerretsen: Well, no. We have to be fair to the next delegate.

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MICHAEL VAUGHAN

The Vice-Chair: I call the next presenter, Mr Vaughan. There is no written presentation before us.

Mr Michael Vaughan: I'm grateful for those who haven't yet gone to lunch. I'm a land use planning lawyer. I'm here just as a citizen. I'm not here on behalf of any group; I don't hold a brief to be here. I have been practising as a planning lawyer for 25 years, and act mostly for developers but also for the province and municipalities, and have been chair of the provincial board, so I have some familiarity with what happens. I want to talk only about one section of the bill, and that's section 26, the section that deals with minor variances.

I would respectfully request that subsections (1) to (37) of that section be deleted, which would leave basically the minor variance process in place as it now is, and then leave subsections (38) to (40), the sections that enable a chargeback to municipalities.

I see it as two separate things; that is, there's the system side of it and then there's the money side of it. What I'm hoping is that the fiscal tail would not wag the planning dog. Maybe there's someone from the humane society here; I'd better be careful.

In terms of background, many people would see the proposal in section 26 to dramatically alter the system as a direct attack on the rights of property owners, both those who are in favour of development and those who oppose development. Section 26 really, practically, takes away their ability to appeal minor variance decisions to the OMB. People care profoundly about their homes and their businesses and their right to make alterations to their properties or to oppose what they fear might be damaging alterations by others.

Committees of adjustment generally hear applications over a six- to 10- to 20-minute period at most and normally do not permit leading of evidence or cross-examination and all the things inherent in a real hearing. That's for a very good reason, and that is that people rely on the fair, impartial and full hearing that's available later at the OMB on appeal.

Our system, like any other system, sometimes produces wrong and hurtful decisions. But what makes it tolerable is that the process is fair and impartial. Committees of adjustment are appointed by councils and they're subject to reappointment by councils, and they're often not unresponsive to the reality of political pressures.

Some people will feel uncomfortable if elected municipal councils review decisions of their own appointed committees of adjustment to which they have delegated the power to make such decisions. The parties involved may not be content to have their appeals of minor variances from bylaws adjudicated by the very council that passed the bylaw in the first place and by elected politicians who—let us acknowledge realities—must respond to votes.

As a legislative body, council enacts laws, much as does the Legislature, and the OMB adjudicates appeals from decisions relating to those laws, much as the courts adjudicate appeals from provincial legislation. Appellants would be uncomfortable to have their appeals from court

decisions concerning provincial legislation actually decided by the Legislature instead of by the courts, and that may equally be so with reviewing appeals from zoning adjudications being decided by councils.

Our present system provides for impartial appeals from minor variance decisions with full and fair hearings. The system is efficient and, with mediation and case management, becoming more so. It avoids litigation and congestion and discourages abuse. These benefits and values would be at risk if review appeals were directed to politically elected councils.

The OMB assesses issues of substantive impact and applies the test set out in the act. It is shielded from the heat of political passions and pressures, and really only about 6% of their time is consumed with OMB appeals.

The reason I would urge that the basic system remain as it is now is really practical, that is, it's important to get things moving in the province and particularly in this city. Land development depends on confidence in the integrity and impartiality of the system. The right to a hearing at the OMB is central to our approval system and it's essential to avoid the abuses inherent in other systems which leave land development decisions up to locally elected councils. I don't mean to put locally elected councils down, particularly as some of you may come from that background, but the abuse and opportunity for abuse is obvious.

A full hearing pursuant to the Statutory Powers Procedure Act could take half a day or a day or in some cases a couple of days. If council were to make minor variance decisions, or its committee of adjustment with a council member on it, and have to follow the Statutory Powers Procedure Act—that is, have a full hearing—that would mean in most cases that minor variances would be dealt with by committees of adjustment without council members on them and then council would review the decisions or forward them to the OMB.

I don't have a problem with forwarding matters to the OMB, but the ability of a council to review the decisions is a little bit tainted, in my view. It amounts to the ability to extinguish a quasi-judicial process by making a political decision, and I think that would make our system dysfunctional and have some consequences.

One would be that committee of adjustment hearings may become long and full hearings, with cross-examination and so on. The second may be that instead of appealing committee of adjustment decisions, applicants would be driven to make rezoning applications because that lets them end up at least at the board.

But the third and most important thing—and I've got to say that land development is a fragile exercise and is very much dependent on perceptions of environment, and there are tremendous risks in the process. If the system becomes politicized, some people will take comfort in that and others will not. I guess what I'm saying is that there's no real reason to monkey with the system. On the other hand, there may be no problem in downloading the cost. That hopefully may lead to some privatization of the cost, which should discourage frivolous appeals, of which there are many.

Those are my comments. If there are any questions, I'm happy to address them.

Mr Gerretsen: Thank you very much. Having been a member of a local council for 16 years and having been involved on all sides of these minor variance issues, I completely concur with what you're saying. As a local politician, I didn't like what the OMB did sometimes, quite simply because it was there sometimes to overturn local decisions. No matter what endeavour you're in, you don't like to have this notion that somebody can actually change that. But I'm a lawyer as well, and I went into court and sometimes I lost a case before a judge as well, and I didn't like what the judge was doing. But I certainly wouldn't suggest for a moment that just because of what a particular judge did in a particular case in not agreeing with my point of view, therefore we should get rid of the judicial system. That's the way I look at it.

To suggest that you're anti-municipality because you feel that an appeal should go to a completely separate body—which has been suggested by some people, and I'm sure that will be AMO's position to a certain extent, that municipalities should have the power within their own house to make these kinds of decisions—I think is totally wrong.

You brought out a couple of other good points dealing with the whole notion of how committee of adjustment members feel towards their council members if they know their council members can review their decisions and how that's going to affect their reappointment. That's one point of view we haven't had here, and I thought that was very well made.

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There's the other aspect as well, of course, that quite often the bylaws that somebody wants a minor variance from are passed by the same council that now is being asked to deal with minor variances to that. I can well understand how sometimes councils or individual members of council will say, "Well, no, we put in a side-yard or a rear-yard requirement of X number of feet, and I don't want to deviate from that now."

One of the reasons this is here in the manner it is in Bill 20 is to speed up the process. Obviously one of the things that takes a long time is for a matter to be heard by the OMB if there is an appeal to a minor variance. I've suggested that maybe what they could do is set up a panel with rotating members that would deal with minor variances in a more expedient way than, let's say, a zoning application, which is of much greater import in a lot of cases. Would you have any comments on that? I know we're talking administratively here, but if we don't want to wait until a minor variance appeal hearing is actually made, nine months or 12 months down the road, how can we improve, from your experience, that time period so that minor variances or appeals to them can be dealt with more quickly?

Mr Vaughan: That's certainly a useful suggestion, having special panels. The board is moving in that direction. They have collapsed the time periods, they're reducing the time periods, for hearing appeals. They're generally heard by one person.

In response to some of your comments, enabling council to review committee of adjustment decisions is an open invitation to objectors to put the pressure on the member of council to indeed review the decision and turn

it down if that's the way the neighbours feel about something.

The board is moving strongly to mediation, but mediation does not work in a case where the committee of adjustment has turned down a decision. I mean, there's nothing to mediate, so you then have to get a fast hearing.

I think the board has a way to come with dealing with frivolous appeals. I had one two weeks ago in East York where the neighbour who appealed a unanimous decision of the committee of adjustment simply wanted a cash payment of \$100,000. That was his sole reason for it. There was no secret, no bones about it. I thought that was so obvious, so I brought a motion to dismiss. I didn't think the Planning Act was set out for that purpose. But the board went ahead and had a hearing that went over three days. They were fastidiously careful to make sure this particular person had a fair hearing, I suppose so he wouldn't then be able to find grounds to appeal.

I think the board is coming along but is still not at the point of being courageous in terms of dismissing what are patently wrongful abuses of the process, nor is it using its power to award costs as much as it should. That's why I say, to the extent that this is privatized, that puts the pressure on municipalities, and maybe to some extent on the parties, to take a careful second look at what they're doing here.

Ms Churley: I have a quick question. Because there's no written brief, which is fine, I want to ask you to tell us again which section—

Mr Baird: Minor variances.

Ms Churley: I know it's minor variances. I'm trying to remember, actually, which—

Mr Vaughan: It's section 26, at least of my copy of the bill.

Ms Churley: Oh yes, that's right. It's right here. Which parts did you ask to have removed?

Mr Vaughan: Subsections (1) to (37).

Ms Churley: The reason I asked is that I don't think there's been one delegation before us that has agreed with this section, for the same reasons you've expressed, that it is not appropriate, that there are all kinds of problems with an elected council having the final say in an appeal. I am hoping to come forward with a motion to the committee before it leaves to go on the road. I think it would be useful if the government would be willing to look at giving notice that it's willing to make an amendment in this area, because for people who are coming to discuss this issue with the committee over the next couple of weeks, if we could reach an agreement on an amendment, it would eliminate an obvious problem that everybody agrees with.

I hope the government would look favourably at that so that people like you who I'm sure are very busy, and I appreciate your presence today, won't feel, because clearly you feel strongly about it, that you have to come down and waste part of your day commenting on it.

Mr Vaughan: If I could respond to that, I agree, this is déjà vu. We've all been here before and last time around made the same submissions. The bureaucracy last time produced a similar provision, Bill 163. The hearings were held. It was thrown out before.

Ms Churley: And here we go again.

Mr Vaughan: And here we go again. It's almost the same wording. I don't know, if it were a case of a municipality, you would say the staff was trying to launch an appeal against the decision of council.

Ms Churley: Oh, they'd never do that.

Mr Vaughan: I ought not to make those statements here, but—

Ms Churley: I recall this being an issue when we were holding hearings on Bill 163, although I wasn't directly involved. I don't know what happened. I wasn't part of the planning process here with this draft bill, but I know this is just not going to fly, and the quicker we get it out of there, the better for everybody at this point. That's all.

Mr Baird: In light of your last comments, perhaps ascribing a particular specific motive to the enclosures for that, I don't have municipal experience, which I think certainly in this area would be of great assistance and I'm pleased that a number of members of the committee do.

Obviously, the idea behind the minor variance issue not going to the OMB is to streamline and to save money. You say you have a lot of experience in this regard. What would the range of costs be for an individual to go to the OMB in terms of legal help? You mentioned three days, one you were at.

Mr Vaughan: What happens is it's sort of a little game. All an appellant has to do is send in a letter, not really with any reasons. The case law says you don't really have to have reasons, because poor Mrs Smith or Mr Smith may not be knowledgeable about the act. So you have to send a letter in and you have to send in \$125, I think it is. Then you have a free ride. You can hold something up for a year. You can have a three-day hearing. You can always find a lawyer who will do it for nothing or very little. You can find all sorts of neighbours to testify. The whole process is problematic.

On the other hand, the thing about the product of the process is that we're dealing with a process that produces buildings and lots and that kind of thing. It's not a process that produces toys or cars or TV sets that you buy this year and they're gone in five years. Buildings last for a long time and cities last for a long time. If men influence cities, then cities influence men, and there is an advantage in having a process where there is participation, bona fide participation, and where people who care and have views have a chance to be heard and a chance to affect the outcome. That is a great virtue of the OMB process.

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Mr Baird: But with great respect, you ascribed a very specific motive to the inclusion of these sections 1 through 37 on the minor variance issue on behalf of why it was put in this legislation. What would it cost an individual to go before the OMB? If you're going to go before the OMB, you're going to want talented legal help such as yourself. How much would it cost to have legal representation for, let's say, the example you brought up of a three-day hearing?

Mr Vaughan: It ranges from \$125 plus the cost of a stamp, and then you get to be there and talk for a long time—

Mr Baird: Sure, but going with legal help. It's a very litigious process, I would think.

Mr Vaughan: In a case I just finished a week or so ago involving the city of Toronto, they had two lawyers present, and I think about four planners. The case went on, again, for about three days. Oh, gosh, you'd be talking thousands and thousands of dollars a day for that.

Mr Baird: Plus for the individual.

Mr Vaughan: Yes. You've got to pay the lawyers, and the planners have to be there and then they've got to prepare for twice the amount of time it takes them to be there; so, many thousands of dollars.

Mr Baird: Say you have six, in this case two lawyers and four planners, there for three days; that would be 18 days' time to prepare, plus the other side, plus the OMB's costs. It's exceptionally expensive.

Mr Vaughan: Plus the other cost, notices, the whole thing.

There's a case, for example, that I was supposed to appear on tomorrow but it's been adjourned. The city of Toronto has a little thing going where the members of council can appeal decisions of the committee of adjustment sort of at will and then if the city staff won't support the appeals, which they often don't, they get funds to do the appeal. In this particular case they allocated \$5,000 to retain an outside planner to give evidence on a hearing that was scheduled to last one day. That's for the planner.

It is expensive, but it is the system that's in place and generally people are happy with it. To change it to be a political thing would only lead to more abuses. That's the thrust of my comments.

Mr Murdoch: This will maybe just be a comment. I'm a little sorry to hear you say about politicians—I come from the municipal system and I think we could make those decisions. I understand your problem of the minor variance, and maybe there should be something there. Maybe the people who object should pay for the hearings. I'm really surprised too to hear the former mayor of Kingston and the former president of AMO switch so easily once you become an MPP. They lose their roots. I'm really appalled to hear that.

I'm concerned that you don't have enough faith in our municipal governments and our democracy system. I know you were trying to tread pretty carefully, but I think they should have those decisions.

Mr Gerretsen: On a point of privilege, Madam Chair: I've indicated this in the House before. If Mr Murdoch can indicate where I switched, then I will admit that, but I have not switched on this at all. As I've stated before, I have great faith in municipalities and they should be making the initial decision, but they should not be involved in the appeal process as well.

On a further point to my friend Mr Baird, a point of information: If the final appeal was—

The Vice-Chair: Excuse me.

Mr Gerretsen: —to the council, you'd be involved with the same cost as far as lawyers and experts are concerned. Certainly, a person would be entitled to bring the same information—

The Vice-Chair: Excuse me. Order.

Mr Murdoch: How we change when we get to be an MPP.

Mr Gerretsen: If you want all sides to be heard, you'd have a three-day hearing; you could have a three-

day hearing before the OMB and you'd have a three-day hearing before—

The Vice-Chair: Excuse me, Mr Gerretsen. These are points of disagreement, not points of privilege.

Mr Gerretsen: It's not a point of disagreement.

Mr Hardeman: On a point of order, Madam Chair: I think in the last two or three days Mr Gerretsen has, two or three times, raised a point of order and then proceeded to use that time to make a speech on his opinions. I believe if that's going to be afforded to one member of this committee, it should be afforded to all members.

Mr Gerretsen: On a further point of information, the parliamentary assistant has done exactly the same thing on at least two or three occasions.

Mr Murdoch: It's a sore point.

The Vice-Chair: Mr Murdoch, would you like to finish your question, please.

Mr Murdoch: I think our time is up. I appreciate your coming. I know you've got to tread pretty lightly. I think if we start taking the democratic process away—people have a chance to elect their councils and they've got to be given back authority. We're trying to find that balance too, and I understand your problem.

Mr Vaughan: If I can respond to the question, I think there is an immensely proper role for legislative bodies that are elected, and that is to pass laws, and those laws tend to be of general application, as they should be.

What happens in a highly developed municipality such as Toronto or to some extent Kingston—

Mr Murdoch: We wonder where they've been going.

Mr Vaughan: —is you can't legislate zoning. There's no way. There'd be roomfuls of bylaws; you'd have to deal on a site-by-site basis. Development does occur and must occur through minor variances to the bylaws. That's why the city of Toronto has a thousand minor variance cases a year. That's the only way it can happen under our system.

That process, for council to get involved in that, I think there are problems of a—

Mr Murdoch: Toronto versus rural Ontario.

The Vice-Chair: Excuse me, Mr Murdoch. Thank you, Mr Vaughan, for coming before us this morning. We've appreciated your presentation.

Seeing no other further business, I move a recess until 1 o'clock.

The committee recessed from 1225 to 1305.

BOARD OF TRADE OF METROPOLITAN TORONTO

The Chair (Mr Steve Gilchrist): Good afternoon, ladies and gentlemen. Seeing a quorum present, we'll reconvene for the agenda items this afternoon. Our first group making presentations this afternoon is the Board of Trade of Metropolitan Toronto. We have 25 minutes available for you to divide, as you see fit, between the presentation and the question and answer period.

Mr Peter Gabor: I appreciate the opportunity to represent the board of trade here. On a personal note, I'm happy, in reading and reviewing Bill 20, that this committee and the committees that prepared Bill 20 have not only listened to but also heard some of the business

community, related to the building industry particularly, in making the revisions to Bill 163.

I'm going to read the information that already has been given to you and make some comments along the way to support what's written, and then you can ask questions. You can jump in at the end or jump in any time.

The board of trade agrees with the Honourable Al Leach, Minister of Municipal Affairs and Housing, that implementing Bill 20 will make the planning process more efficient and streamlined, thereby leading to economic development opportunities responsive to market demands. The board has long expressed concern that the planning process in Ontario is unnecessarily complex, restrictive, time-consuming and costly. As stated in our letter to Minister Leach on September 25, 1995, "Excessive regulations cost money to comply with, and money to administer." Bill 20 goes a long way to improving the situation.

We've reviewed the document in its entirety and we particularly like the following changes. We think they're particularly important in improving the planning system.

Deleting the requirement to "be consistent with" planning policy rather than "having regard to" is a very positive step. I know that there are other industry groups that make similar presentations. This one change restores a lot of balance to the planning legislation, and it offers the municipalities and regions the flexibility to live within a consistent set of guidelines but to modify those where special conditions warrant, and only at the local level can you really assess where those changes have to be made.

Shortening the time frames for processing applications: Bill 20 proposes several in its provisions, and we wholeheartedly support this effort. We felt that Bill 163 was particularly lacking in that application.

We support the elimination of referral requests by permitting applicants to appeal directly to the OMB. This again cuts red tape and costs.

We support introducing provisions whereby certain official plans and official plan amendments can be exempt from an upper-tier approval requirement. Where this makes sense, again, is that it will cut time frames and costs, and in the end the consumers will benefit.

Removing powers to summarily dismiss applications on the basis of prematurity, because necessary public water, sewage or road service would not be available within a reasonable time frame: I think this change recognizes that, once approved, sometimes very innovative tradeoffs are made to allow certain projects to move forward. I think it also maybe subliminally recognizes that there are technological changes that are available today and will come forward in the future that might allow projects that are approved to proceed on the basis of on-site treatment of water and sewage problems.

We also support making the Ministry of Municipal Affairs and Housing the only provincial ministry that can appeal a planning decision to the OMB. I think this will go a long way to ensuring that there is a coordinated effort on behalf of the government and a single source that we in the industry can apply to and work with, and that would be a big improvement on, again, the consistency of meeting policies and would improve the time frame as well.

Removing provisions allowing municipalities to prohibit all uses and classes of buildings on land with significant natural or cultural heritage features I think restores faith in the municipal process and doesn't tie the hands of the municipalities completely in dealing with lands that they and their citizens and constituents know how best to use.

We are also supportive of reinstating to municipalities the power to determine, through zoning bylaws, where new second units in houses are permitted and what standards apply. This restores to the different communities their own perspective and they are able to meet the needs and requirements of their own residents. There's not necessarily one rule that has to apply province-wide to meet a policy.

We do, however, have some limited concerns. They are limited in that they're primarily in three areas, but we feel that these are very important issues that still have to be dealt with and we would hope that you take into consideration these three areas.

One is the proposal to remove the right of appeal to the OMB on minor variances, and I'll go into a little bit of detail in a minute. No changes are proposed to the Municipal Act regarding site alterations and tree regulations. Finally, no changes are proposed to reduce the number of approvals by committees of adjustment; I'll go into what we mean by that in a second.

Dealing with minor variances, the board does not agree that section 45 of the Planning Act be repealed and replaced with provisions that restrict direct appeal to the OMB. Municipal councils are not appropriate bodies for matters of a quasi-judicial nature. We urge the government to retain the right of appeal to the OMB, as permitted in current legislation. Councils historically have been subject to a conflict of interest actually as they themselves appoint committee of adjustment members in the first place and they are often too influenced by a few local and vocal ratepayers. Therefore, councils do not have the objectivity and impartiality to ensure a fair hearing for the applicant.

As architects and urbanists and planners here in the GTA, we have experienced this ourselves and we have always counted on the ability to go to the OMB to get a fair hearing based on planning principles, with as little political interference as possible.

With respect to site alterations and tree cutting, the board recommends that the government withdraw new provisions in the Municipal Act added under Bill 163 that permit local municipalities to pass bylaws respecting site alterations and tree cutting. The board believes that such provisions can be used to unjustifiably stop development and have the undesirable consequence of encouraging property owners to cut down their trees. We have heard discussions by various people, sometimes homeowners, sometimes developers, who wonder if the regulation says that this calibre of tree requires a permit to be removed, while if it's three millimetres less, "We better cut it down now because then we won't have a problem in the future." I think that is working at cross-purposes to what the original intent might have been. We have noted some abuse of this regulation by municipalities and feel it is an important issue of fairness and protection of long-standing rights of property owners.

I might add that mature trees are typically valuable in and of themselves. We, in our own developments, have taken drastic measures to preserve trees, calling in tree specialists to shock-treat, prune, make sure that whatever we do, we maintain trees because they really add a lot to the value and to the ambience of a property if they are in good health after the development happens. I can personally attest, as well as add my personal support to the board's position, that history proves that trees will only be cut down as a last resort in most developments.

The third issue deals with reducing the number of approvals that have to be given by the committee of adjustment. We're hopefully all in agreement that we want to reduce, wherever possible, the use of approval agencies if there are other ways that can be found where nobody loses in the situation. In this area we have a suggestion, in that in order to significantly reduce the existing workloads of committees of adjustment related to the conformity of older buildings with setback and similar provisions of zoning bylaws, the board suggests that buildings over a specified age—and we've written down 20 years, but it might be arguable that it should be 15 years or 25; we're not saying what that should be, but just that the principle should be adopted—these buildings should be deemed to comply with the bylaws as they stand at the time of application for any change to the property.

This would then permit many more additions and alterations to receive building permits without having to obtain committee of adjustment approvals for historical variations from the zoning bylaws. These can lead to very great anomalies and unnecessarily scare neighbouring homeowners, because often, even if you're adding on 20 square feet for a dormer window, if you have to make other parts of the building conform, your 20 square feet that you're asking for turns into 780 square feet, which sounds like a big addition when in fact nothing more than just a small variance is being asked for. This would remove an obstacle to affordable renovations and unburden municipalities of a costly and redundant review process.

I might add that typically existing, non-conforming uses, if they're not abused, are routinely approved by committees of adjustment, so it seems to be a waste of time and money. This would be a very good way to streamline the process that's not addressed in Bill 20.

The only thing that I would add, and this is not really written in the report, is that as welcome as these changes in Bill 20 are, they don't exist in a vacuum. There are many other good initiatives that the government is taking that have to work in an interrelated fashion with what you're doing here. I'll mention just two others which we feel are important: They are changes to the Ontario building code to restore it to its original intent, and for the GTA at least to look seriously at the implications of not acting on the Golden commission recommendations.

I will just leave it at that. If you have any questions, I'd be pleased to answer them.

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Mr Hampton: You mentioned in your brief a letter you sent to Minister Leach on September 25th. Would you be willing to make that letter public?

Mr Gabor: I think it is a public document.

Mr Hampton: Is it? Can you produce a copy now?

Mr Gabor: I don't have one with me.

Mr Hampton: Can you produce one later?

Mr Gabor: Yes, I think we can.

Mr Hampton: Okay. On page 2, you refer to making the Ministry of Municipal Affairs and Housing the only provincial ministry that can appeal a planning decision to the OMB. I ask you this: Suppose there's a significant natural feature—let's say we're dealing with a wetland or let's say we're dealing with the headwaters of an important stream like the Rouge River—and the Ministry of Natural Resources says, "This is really important," but the Ministry of Municipal Affairs and Housing wants to see development occur, no matter what kind of environmental damage may result. Do you think in that situation the Ministry of Natural Resources shouldn't be able to appeal to the OMB?

Mr Gabor: Yes, because I don't think the Ministry of Housing or Municipal Affairs would be acting unilaterally in the first place.

Mr Hampton: You're wrong there. Those things happen all the time in government, situations I know of. The Ministry of Environment wanted to bring down very tough regulations dealing with the release of chlorine dioxin into lakes and rivers, and the Ministry of Economic Development and Trade didn't want that to happen. Those things happen all the time in government.

What you're saying here is that only one ministry should be allowed to voice concerns at the OMB. Are you saying that's—

Mr Gabor: We are proposing that that ministry be the voice of the government. Perhaps that will spur more cooperation between the ministries in developing policy, so that rather than these dichotomies of interest occurring at the times of application and response to specific initiatives, the government will have worked out policies that take into account where the priorities are, how they are applied in different situations. You might develop a program where, if the Environment ministry has a real concern, then it expresses that through the Ministry of Municipal Affairs.

Mr Hampton: Why not express it publicly? We live in a democracy. Why would you be afraid of that information being made available to the public?

Mr Gabor: We're not saying that the information shouldn't be available to the public.

Mr Hampton: If you have no problems with it being available to the public, then why not allow the Ministry of Natural Resources, if it has significant concerns about environmental damage, to make the appeal to the OMB?

Mr Gabor: Because that would mean that the government has an uncoordinated set of policies, that it can't even agree to the priorities. Therefore, how can they present a reasonable approach to commenting on any particular application?

Mr Galt: An excellent presentation. You have it on two pages, and that's just marvellous. And your response to Mr Hampton, a marvellous response. We've been struggling with them for so long. You just did an excellent job. Dead on. If the government can't get its act together, why should the government expect the public to have to coordinate all the various ministries?

We've been into a great debate, either the people coming before us are in favour of "having due regard" for or they're opposed to it and they want to support "be consistent with." Do you see municipal governments acting irresponsibly if we move ahead to "having due regard" for?

Mr Gabor: No. I think that if the guidelines are revisited—I think right now there's just a complexity to them that makes it very difficult to follow. I think when we first got them they were a stack a foot high. I don't know how many inches have been reduced through the final process, but I think the policy guidelines would still be there. They couldn't flout those guidelines. I think they could only act responsibly in mitigating whatever those guidelines are in response to very specific local conditions.

In our mind what happened before, the government, under Bill 163, said to the municipalities, "You can do whatever you want so long as your hands are tied behind your back." Really, all this restores is some flexibility.

Mr Galt: Okay. We've had this Bill 163, "to be consistent with." We've had policy statements and some 600 pages of guidelines. First, I wonder if you've read the 600 pages of guidelines and, secondly, do you think that provides any flexibility for the needs of the local community and citizens?

Mr Gabor: I must tell you that I've been afraid to get into that document because I just thought I would never get through it, but we at the board tried to divvy it up and I have looked at parts of it. I think they go too far, they're too prescriptive and that should also be revisited.

Mr Galt: If someone in your position hasn't had time, could not get through 600 pages, I'm not sure too many other people have. Thank you very much for your thoughtful responses.

Mr Gerretsen: I found it a very interesting presentation as well, sir. What I'm particularly interested in is an issue that hasn't been raised before and this is indeed your notion on the non-conforming sites. I totally agree with you on that, by that way, sir.

Now, we could argue about what type of buildings it should apply to, what age period, but I'll give you a personal example of something I just heard about last Friday where, in a residential subdivision, a single-family home that was built in 1955—only now that the house is being sold and for the first time a survey is being done of the property itself, which wasn't commonly done back in the 1950s and early 1960s, they found that in effect the house is six inches too close to the street line. In order to rectify that, a situation that's been there ever since it started, a committee of adjustment application is required because they have to prove that the building was there before 1947 when the then bylaw was changed etc, which of course it wasn't, because it was built in 1955. It seems to me that in a lot of those kinds of situations, an application shouldn't even be necessary.

Mr Gabor: Exactly.

Mr Gerretsen: And your suggestion here—and I would strongly suggest that the government take a look at this. There may be an argument made for commercial buildings. You might deal with them a little bit differently, but certainly it's something that ought to be taken a

look at, and we haven't really asked anybody who's been with any municipality. I would dare say that about half of the applications of a minor variance nature are of exactly that nature, that is a waste of everybody's time and money, because what are they going to ask the person to do if a house has been there for 40 years, move it?

I know in the city of Kingston, for example, we have a situation where, as a result of its being an old city, along our main street, Princess Street, every building on the south side is two and a half feet on to the road allowance. These buildings are 100 years old. Is anybody going to suggest you move them? No, but what happens is that every time somebody wants to do something to one of these buildings, they have to go to the committee of adjustment at the same time, which is a complete waste of time.

Have you developed any further sort of policy guidelines? I know you've just put it in one paragraph here. It's certainly something that's well worth exploring. I would suggest, because that's where the real savings are, not in whether or not an appeal can be done in 20 or 30 days. It's in these kinds of things that bring totally needless issues to a committee level that never should be there in the first place.

Mr Gabor: I would agree that this is an excellent way to streamline the process, but I think it has to be taken in the context that wherever streamlining can take place, it should.

We were thinking of this exactly as you've expressed, as unnecessary, redundant requirements to the committee of adjustment, in line with similar measures that municipalities sometimes take; for instance, passing bylaws that don't conform to the existing situation in neighbourhoods. So whereas you have a number of 25-foot lots, they write the bylaw that you're only allowed a 20-foot lot. There are further improvements, but this is not the time or place that we can discuss those.

Mr Gerretsen: I think with the municipalities—and they'll be here later on today, and I'll remember to ask them if I've got time—there are really situations where municipalities want to control that situation, that a person has to go in for an application, where to a certain extent it's almost an abuse of process.

Mr Gabor: History proves that most of these applications—if there's something that's a real anomaly, then that may be. I don't know how to draft legislation to respond to those situations—

Mr Gerretsen: No.

Mr Gabor: —but I've seen very rare occurrences where there's been any kind of abuse of this. As you say, if something's been there for 75 years, then certainly we don't have to prove that it's there.

The Chair: Thank you, Mr Gabor. We appreciate your taking the time to make a presentation before us here this afternoon.

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LIONEL JOHNSON

The Chair: Our next presentation is from Mr Lionel Johnson. Good afternoon. We have 25 minutes you can divide between presentation and question time.

Mr Lionel Johnson: I'm here as a housing worker from the Church of the Holy Trinity and as somebody who's worked for six years in the non-profit housing sector, so I'm here representing a community as well as my own personal interests in the area of housing. I'm here to address the areas in which the proposed Bill 20 would affect municipalities, giving them the right to allocate certain areas within municipalities so that there wouldn't be apartments allowed in houses.

I'm speaking to this issue from the perspective of resources and development in the sense that right now the vacancy level in Metro's pretty low. I hear a lot of concerns and pleas from people looking for non-profit housing, and the only places that I can refer them have extraordinarily long waiting lists. It's a really difficult role to be in. A few weeks ago I received a phone call from somebody who was literally yelling at me and asking where are they supposed to go. They were articulating some of their concerns about the lack of housing resources in the city, and all I could do was apologize and tell them that it wasn't my wish that the affordable housing stock in this city come under threat.

So for me, I think that apartments in houses are an important resource for people who live with low and moderate incomes, and I'm really concerned that specific areas within a municipality could be zoned in such a way that they would be prohibited in that area. The other concern I have is the double standard it would create between apartments in houses that existed before a certain time and after. It would place people who need to possibly have building inspectors into their houses in an awkward situation because they would risk having an illegal apartment exposed.

These are my concerns, and I'm open to hearing your questions about them.

Mr Pettit: That was quick, but thank you for your presentation. Do you not think that the municipalities are best equipped to determine what is best for their own municipalities?

Mr Johnson: For me, it would depend on whose voice the municipalities were hearing in terms of which area they chose to designate as not being allowed to have apartments in houses. If it was the voice of people with privilege and with a lot of money, I would be very concerned.

Mr Pettit: That's an assumption—

Mr Johnson: I realize it is.

Mr Pettit: —but let's assume that these are responsible councillors or whatever. Why would you think that they would not act in a responsible manner?

Mr Johnson: My concern is that housing stock in the general sense is at threat right now, and as somebody who looked for an apartment over a year ago, I know what bachelor apartments in houses look like in this city already and it's a pretty sorry sight. So I think resources need to be augmented and not diminished.

Mr Pettit: Why do you think that rental housing is in short stock right now?

Mr Johnson: I think it costs money to put out rental housing and—

Mr Pettit: In your view, could it be a result of too much red tape and regulations that get in the way of developers?

Mr Johnson: I don't know. I've never been a homeowner. I've always rented.

Mr Pettit: I'm saying though, do you feel that it's all the red tape and regulation that perhaps is preventing private investors from developing and building?

Mr Johnson: I don't know. I think it is part of the role of municipalities to create structures within which housing happens. So I'm not against red tape. I think structures are necessary.

Mr Pettit: Do you think that Toronto should be treated somewhat differently from any other municipality in the province when it comes to any rules and regulations relative to housing? In other words, do you think that we should impose made-in-Toronto solutions on the rest of the province?

Mr Johnson: I think every municipality is different and unique. I'm aware that there is a high need for affordable housing in this city. So my issue is specific to this municipality and the high need for resources in Metro.

Mr Pettit: You're aware that we're not making any of these second units illegal?

Mr Johnson: No. Maybe you could clarify.

Mr Pettit: I'm saying anything that's there now is not going to be declared illegal.

Mr Johnson: I understand that it's after a certain date, but the problem is that people are not aware of this, and people who are in illegal second units because they couldn't find appropriate housing would be in jeopardy of losing their unit if there were problems with it.

Mr Pettit: Do you think then if in fact we get rid of—as you may or may not know, the government is looking at eliminating a lot of red tape and regulations—if we do that, that will encourage the private sector to get involved again in building housing?

Mr Johnson: It depends. I have a hard time discussing this in a general sense. I'd need to know what red tape we're talking about, and I realize that's a larger conversation.

Mrs Barbara Fisher (Bruce): I just have one point to make, which will be followed by a question. I'm a member from a rural riding and I would agree with you that the demand for second-unit housing in my area is less than what you would experience here in Toronto. However, the Planning Act must accomplish for the province of Ontario the guidelines and the rules and regulations that are going to be needed and be of service to all the population in Ontario.

I would ask you this. I have, I guess like everybody else here, many friends who are highly mortgaged and probably in some cases wish today that they were renting instead of owning because of their mortgage situations. Having said that, do you think it's fair to the property owner, the person who's taken the risk to go out there and buy a home and try to be an owner of a home in a setting, that after they bought the home, a municipal council should be allowed to go in there and turn the single-family-dwelling designation into multiple housing? That does change the structure of maybe why that person bought the house and where he bought it. Do you think that's fair to the owner?

Mr Johnson: I'm sorry, I have some hearing loss and I missed a portion of your question.

Mrs Fisher: What I'm asking is, a homeowner who goes in knowingly buying a piece of property, say a single-family-dwelling unit, is it fair to that person then that a municipal council just turn around after the fact and change the parameters by which that person bought it, with the understanding of why that person bought there? Do you think that's fair?

Mr Johnson: So they bought it as a single-family dwelling.

Mrs Fisher: Yes. They live in a subdivision that's all single-family-dwelling units, which by the zoning bylaw doesn't allow for multiple units. Do you think it's fair then that the municipal council can just turn around and impose multiple-unit living?

Mr Johnson: Right. I hear your question. I think it is fair, because I do not believe multiple-unit housing mixed in with single-family dwellings poses any kind of a problem or threat. I think for me it's not a problem. All sorts of people can live together, and I believe in blended economic communities and blended communities.

Mrs Fisher: I do too, but I would wonder, does it not interfere with things like parking parameters? For example, in my municipality you can't even park overnight. Most of these places aren't even made to have multiple parking units and that type of thing. I totally believe in blended living as well, but I think that should be planned to start with. I don't think you turn around and do it to the person after the fact. Thank you.

Mr Hardeman: Mr Chair—

The Chair: Can you do it in 40 seconds?

Mr Hardeman: I just had a question—you didn't address it—on registration of the second unit. Do you have any comments on that? Do you think that's going to be an advantage, to make sure that everyone will register so they'll be on record as being a legal non-conforming use?

Mr Johnson: I've heard different sides of the argument. I think structures that ensure quality and that ensure really critical things, like fire codes being followed and all of that, are really important, so I think registration plays an important role in that. I realize as well that with registration, other people fear that it's going to be used as a mechanism for seeking out illegal units. So there are problems with that. I prefer the side of having structures ensure that housing is safe. That's my preference, personally.

1340

Mr Gerretsen: I would suggest to Ms Fisher that if you want to talk about fairness, it's no less fair than if you have two identical houses in a subdivision and one has a basement unit in it, that the government comes along and unilaterally says that the adjoining neighbour cannot have a basement apartment unit as well. But I would like to turn more to the human side of it. I think the people side of this is more important than the property side of it, from my viewpoint.

At one time we had a situation where there were at least 100,000 illegal units in the province, and many of the people who lived there were basically the most vulnerable in our society and paying sometimes low rent, sometimes exorbitant rent. Have you noticed any difference in how they feel about their units and their right to

be there since Bill 120 has come into effect and in effect legalized those units? Have you noticed any difference in that respect, and could you describe that?

Mr Johnson: To be honest, one thought I have in response to this is that many of the people I work with who are low-income have lived such marginalized lives that they're not even aware of the laws that protect them, so they've never had a sense of tenure about anything. This is a reality that I've struggled with, because helping them engage the systems in order to deal with legal issues with the landlord is a real struggle. But I do know that, in the sense that I've done tenant development work with tenants and educated them about the LTA and the Residents' Rights Act and other laws that protect people's housing, they have indicated that they feel good, "This is my home, this is where I belong and there are rights that protect my housing."

Mr Gerretsen: Would it also be fair to say that a large number of these basement units or second units in houses rents at a relatively cheap rate of rent compared to what else is out there in the marketplace?

Mr Johnson: Yes. Often I've encouraged people that this is another route for inexpensive housing when they couldn't get into subsidy. It is a lot cheaper. This is a threat to the cheapest housing stock in Metropolitan Toronto and this is a big concern, given the number of calls I've had from people whose welfare allocations are really low right now and who've been leaving their places.

Mr Gerretsen: How do you feel then if this law comes into effect and any further units would in effect be outlawed unless a municipality did otherwise? How do you think this will affect the construction of illegal units? From your knowledge of this, is that going to stop this at all from a practical viewpoint?

Mr Johnson: My sense is that people will build them if they want them and they'll see how far they can go with it.

Mr Gerretsen: Obviously, you feel this will lessen the housing supply.

Mr Johnson: It will lessen the housing supply. I couldn't guarantee that people wouldn't try to get around it, but personally I think it's such a hassle already. I don't think the housing supply is going to expand because of this law; it's going to diminish, clearly.

Mr Gerretsen: I assume that within your community that you've worked there were a fair number of non-profit and cooperative housing projects that were sort of in the mill or had been approved or given conditional approvals. How are those people coping now who would have gone into those units that apparently now won't be built and won't be given allocation to? Have you had any feedback at all from the people who would have been housed in those units?

Mr Johnson: Just a lot of desperation in terms of, "Where do I go and what am I supposed to do?" and a sense of powerlessness, that if there are supposed to be resources for housing, ultimately whose responsibility is it to ensure that? They've turned to us, asking us what we can do. All I can do is to bring this here.

Mr Hoy: I was made aware of a gentleman who rents a second unit to a person. He charges them \$100 a

month. He's a benevolent person; he obviously wants to help, for whatever reasons he may have.

The discussion about red tape, I think it gets mixed in with the ability to pay somewhat. Obviously, streamlining the planning bill will not produce \$100-a-month units, but I think your concern is more one of ability to pay rather than speed in a Planning Act or any degree of red tape. Are not the people who are in these apartments almost forced to seek those places out because they have no other place to go at all, no other option?

Mr Johnson: I don't know anybody who has actually chosen a basement apartment.

Mr Hoy: It's not the Marriott, is it?

Mr Johnson: It's about limits to resources and about, you know—

The Chair: Thank you very much. The questioning goes to the third party now.

Mr Hampton: Can I ask you again, where do you work?

Mr Johnson: I'm a housing worker at Church of the Holy Trinity.

Mr Hampton: Where's that located?

Mr Johnson: That's located right beside the Eaton Centre, downtown.

Mr Hampton: Okay. How many people would you typically deal with, say, in a week, a month?

Mr Johnson: My work is primarily around the development of an actual housing project, so at this place of employment I'm just getting the odd people calling up and asking for housing. That's not the bulk of my work, dealing with one-on-one stuff.

Mr Hampton: What are the typical income levels of the people you deal with?

Mr Johnson: Welfare and FBA.

Mr Hampton: The Conservative government believes that the private sector will build housing for low-income people. If you ask the members here, I think they would say, "Make the incentives," or as they say, clear the red tape and the private sector will build housing for low-income people. Do you think that will happen?

Mr Johnson: No.

Mr Hampton: Why not?

Mr Johnson: I don't believe the free-market economy has a morality and I don't believe the free-market economy actually does things to address human need. It's not going to encourage the building of housing. My landlord constantly, when he comes over, tells me how difficult it is, and expensive and tough. So for him it's difficult, and I'm aware for many people it's difficult. I don't think this will encourage it.

Mr Hampton: The way I've heard it described is, housing will be built where you can maximize your profits, and it's difficult to maximize your profits when you're dealing with low-income people.

Mr Johnson: Yes.

Mr Hampton: I'll tell you what I find bizarre about this part about the Conservatives, and I kid the Conservative members. It seems to me that there are low-income people out there who want and need housing, and I see them sleeping in the streets, and I'm sure some of the Conservative members see them sleeping in the streets. Then you have other folks who own a home—they may

be elderly and retired or they may be young folks who just bought the home and they're trying to pay the mortgage—who would gladly, of their own free will, make available an apartment. It might be a downstairs apartment; it might be to convert part of the back end of the house; it might be an upstairs apartment. They would make available an apartment and they would make a free-market transaction: "You pay me the rent. I provide you with an apartment."

Ms Churley: This is what you guys believe in.

Mr Hampton: It seems to me it's one of the most legitimate exchanges we could have. It's like my going to the store and saying: "I would like to buy a loaf of bread. You provide me with the loaf of bread, I provide you with the \$1.95 and we're both happy." Yet, what the Conservative government is doing is essentially criminalizing what I would call free-market behaviour.

Ms Churley: You are.

Mr Hampton: Not only is it criminalizing it in the sense of the landlord, but it's taking away rights of citizenship for all those poor people that other people have and take for granted. That's my sense of it, as I've sat here and listened to it. I can't, for the life of me, understand why the Conservative members would want to prohibit a free market exchange, which both people in the exchange would be happy with; one person gets housing, the other person has a little more retirement money or can pay off their mortgage. Do you understand why the members of this Conservative government are opposed to this very basic elemental working of the free market?

Ms Churley: Loaded question.

Mr Johnson: You'd have to ask them.

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Mr Hampton: I don't understand it either, and I'm waiting for them to provide an explanation. Let me ask you this: I'm aware that these units will be built anyway and will be used anyway, but what will happen is, the folks who live in them, yes, the folks who provide them will be breaking the law, the law you've made, and the folks who live in them will be denied the kind of fire protection, fire safety, electrical protection, electrical safety, and many of the basic health and safety rules that we regard as being part of a civilized and civil society. Do you understand why they would do that?

Mr Johnson: No.

Mr Hampton: Do you want to ask them that? I've been asking them, and they won't provide me with an answer. Maybe you'd like to ask them that.

The Chair: I don't think this is particularly the appropriate forum, Mr Hampton.

Ms Churley: Give us your opinion as to why they're doing that.

Mr Hampton: Why do you think they're doing this?

Mr Johnson: I think affordable housing or a whole diverse range of housing needs to be available in the community for people and I don't think any limit to that is appropriate. I think blended communities with different kinds of housing are important and I think municipalities have to find creative ways to make that happen in terms of parking and everything else. But for me, it doesn't make sense to limit resources. Given the human need, it makes no sense. I don't know. Maybe the question I

would have is how people will benefit from this, how people looking for housing will benefit from this.

Ms Churley: Is there any time left?

The Chair: You've got about 30 seconds.

Mr Hampton: Thirty seconds. Ah, one more jab. I think it cuts along these lines, and I can't understand members of the Conservative caucus taking the side they have. It boils down to the wishes of a few—okay?—to avoid the free functioning of the market—okay?—to deprive the people who want to make the housing available of their liberty and to deprive the people who want housing of their liberty. The wishes of a few to do that have taken precedence in this case, and those few are people who say, "I don't want that kind of person living on my street" or "I don't want somebody living across the road from me who's a mere renter." I think that's what it boils down to.

Ms Churley: That's what it boils down to.

Mr Johnson: For me, it boils down to a class distinction and ghettoizing of people who need housing, and it's about sectioning off certain areas of municipalities for certain income levels. I realize it's a judgement, but that's my belief in terms of what's happening. It's a class issue.

The Chair: Thank you, Mr Johnson. I appreciate your taking the time to make your presentation, particularly as an individual, and showing the initiative to come down and see us today. Thank you.

REGIONAL PLANNING COMMISSIONERS OF ONTARIO

The Chair: Our next group up making presentation is the Regional Planning Commissioners of Ontario. Good afternoon. We have 25 minutes at your disposal to divide between presentation and question and answer.

Ms Sally Thorsen: Good afternoon, and thank you for this opportunity to present the Regional Planning Commissioners of Ontario's brief on Bill 20. My name is Sally Thorsen. I'm the commissioner of planning and culture for the region of Waterloo and I'm also the chair of the RPCO.

For those of you unfamiliar with the Regional Planning Commissioners' organization, we represent the most senior planners from Ontario's 13 upper-tier municipalities. Collectively, the members of the RPCO are responsible for planning the community fabric of approximately two thirds of Ontario's population. In addition, we also process two thirds of the development applications in this province. We have taken and will continue to take a keen interest and active role in the debate surrounding Planning Act reform.

The RPCO's brief on Bill 20 has been arrived at through the consensus of its members and does not necessarily reflect the positions of their respective councils.

I am joined today by Andrew Hope, a planning manager, and Tim Marc, a solicitor, both of the regional municipality of Ottawa-Carleton. They will act as resource persons.

The commissioners share the government's commitment to reforming Ontario's planning process and commend the government on its continuing work in this regard. We offer this brief to help the province achieve

its Planning Act reform objectives of streamlining development approvals, providing municipalities greater autonomy and stimulating economic development.

Among the numerous constructive changes proposed by Bill 20 are, first, reinstatement of the section 3 "shall have regard to" phrase in place of the more onerous "shall be consistent with" phrase linking the planning process with the provincial policy statements; second, introduction of a process to exempt official plans from the review and approval by approval authorities, including the Ministry of Municipal Affairs and Housing and regions; third, reduction of the processing time lines for most classes of planning applications; and fourth, introduction of transitional provisions that allow old planning applications to be disposed of under the then prevailing policy environment.

Notwithstanding these constructive changes, the RPCO believes that there are three key components of Bill 20 which could be improved upon such that it delivers on the province's Planning Act reform objectives. These key components will be the focus of the balance of this presentation.

First of all is the exemption process for official plans and amendments. The RPCO's comfort with this process is predicated on the successful experience with undisputed official plan amendment approvals delegated to most regions under the 1983 Planning Act. As the official plan exemption model is similar to the existing undisputed official plan amendment process, we're confident the official plan exemption model can be implemented.

However, we believe that the province's streamlining objective will be better implemented by amending section 17 of Bill 20 to allow the determination of official plan exemption status to be delegated to a committee of the approval authority's council or approval authority staff.

We are concerned that the exemption process could result in an increase in direct OMB appeals involving official plans and amendments, and therefore we recommend that section 17 be further amended to give approval authorities the explicit authority to exempt official plans and amendments on a case-by-case basis rather than by blanket exemption, as is being proposed by Bill 20. Blanket exemptions will deny regions the opportunity to constructively intervene in the lower-tier official plan/amendment approvals process through the use of modifications to resolve disputes and correct errors post-adoption. Consequently, the only recourse for regions will be through the OMB appeal process.

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The second key component is the proposal for universal OMB appeals. The RPCO have identified three issues involved with the Bill 20 appeals process, namely:

(1) Without the ability to dismiss or scope disputes locally through an OMB referral process, the board will be forced to deal with many matters which it has demonstrated neither the inclination nor knowledge to dismiss without lengthy mediation or hearing procedures.

(2) Universal OMB appeals remove the authority to resolve disputes locally.

(3) Once the board is seized with an appeal, it becomes theirs alone to resolve, including all post-decision func-

tions such as clearance of conditions, issuing final approvals etc.

The RPCO are convinced that universal OMB appeals will leave Ontarians with easier access to the board than at any time in the history of the province. This increase in workload for the board comes at a time when the OMB is receiving no additional resources. Moreover, no effort has been made to account for the increased costs the municipalities and developers will have to shoulder for this increased accessibility to the board.

Recent estimates by the RPCO suggest that the enhanced OMB access afforded by Bill 20 could result in 50% of official plans and amendments and subdivision and condominium applications requiring OMB intervention.

To put this into context, approximately 5% to 15% of pre-Bill 163 official plans and amendments reviewed by regional approval authorities involve OMB referral requests. Fewer still are ultimately referred to the board. What these figures don't reveal is the 25% to 35% of official plans and amendments where regional approval authorities impose modifications to avoid OMB referrals.

The situation surrounding subdivision and condominium applications is similar—5% to 10% of pre-Bill 163 applications were forwarded to the board for dispute resolution. This dispute rate would have been higher had regional approval authorities not proactively negotiated subdivision and condominium approval conditions that prevented some 15% to 30% of applications from reaching the board.

Based on the volume of official plan and amendment and subdivision and condominium applications submitted over the past five years to regional approval authorities, the RPCO estimate that the OMB referral process has saved Ontario taxpayers at least \$18 million. That's the public cost only. It should be pointed out that this figure of \$18 million does not begin to account for the real savings in carrying charges to developers through fast-tracking decisions that would otherwise have to wait for the board's typical 12- to 15-month period to schedule a hearing.

Given the previous success of the OMB referrals process in resolving official plan and amendment and subdivision and condominium application disputes, the RPCO maintain that the province's Planning Act reform objectives are best served by an OMB referrals process.

The final key component concerns the notion of a complete application. It has long been recognized by municipalities and by the Ministry of Municipal Affairs and Housing alike that one of the major reasons for delays in processing planning applications is the absence of sufficient information to make a sound planning decision. While this fact was not lost in Planning Act reform discussions, in the final analysis, the notion of a complete application was reduced to only the most rudimentary information in the belief that applicants will act out of self-interest to provide all the relevant information approval authorities require to make decisions by the milestone dates established by the Planning Act.

We believe the province can and should do better. While the concept of a complete application under Bill 163 is confusing because of the distinction between

prescribed and required information, Bill 20 offers an alternative that in and of itself could result in more disputes as municipalities are forced to refuse planning applications owing to the lack of sufficient information to make a sound decision. In the interests of streamlining planning approvals and providing municipalities greater autonomy, we submit that the solution to this conundrum is to empower municipalities to pass bylaws specifying what information is necessary to process the classes of planning applications for which they are responsible.

In summary, I'd like to thank the standing committee for its consideration of the RPCO's input on Planning Act reform. We cannot emphasize enough the importance of maintaining the economic prosperity of the regions which after all are the province's economic engines. It is critical, therefore, that Ontario's new Planning Act strikes a balance between efficient and hassle-free development approvals and protecting the public interest.

We want to assure the province that we remain committed to working cooperatively towards the objectives of streamlining planning approvals, providing municipalities with greater autonomy and stimulating economic development. It's with these objectives in mind that we urge the province to act on the recommendations contained in this brief so that a pivotal piece of legislation can be made better. Thank you.

Mr Sean G. Conway (Renfrew North): Ms Thorsen, I've got a question for your two colleagues who are from my part of the province. I found your submission very interesting, but my friend from Kingston reminds me that, like a lot of things in life—

Mr Gerretsen: I didn't say a thing. Come on. You're on your own.

Mr Conway: We have in eastern Ontario, I think, something that's quite fascinating if not phenomenal from a planning point of view. I wanted to ask the two people from the regional municipality of Ottawa-Carleton to just provide a brief rationale for the location of the Palladium. It's open now, so those of us who drive up and down the highway quite frequently—and I can imagine a citizen who might be listening to these discussions over the course of many days and weeks. I drive by it myself quite frequently and I'm thunderstruck by the whole proposition—a fabulous team, a beautiful building, a really interesting location. It wasn't done in 1962 or 1973; actually, it was opened in 1996, so it's a fairly recent development.

From the point of view of the regional municipality of Ottawa-Carleton, help me understand again the rationale for the decision that located that hippodrome out in the cornfields of Kanata.

Mr Tim Marc: I thank the honourable member for his question. The Ontario Municipal Board, the first thing they accepted was that the Palladium had to be located on the Queensway. But the second and, I would have to say, the overriding factor was the recognition by the board of the key role that Mr Firestone had played in bringing forward the Palladium. The board acknowledged that it was Mr Firestone's impetus that brought the Palladium to be, that he didn't have the power of expropriation, that he had to go with land that he could purchase and while there were other sites that may or may not be better, the

lands owned by Mr Firestone are in the location where the Palladium now is and the board accepted that those were the lands that the Palladium would have to be located on or nowhere and that's the basis upon which it was approved.

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Mr Conway: Given the enormous implications that a facility of that kind has certainly on the western perimeter of the regional municipality of Ottawa-Carleton, what opportunity does the regional municipality planning department have to offer some input?

For example, in the unlikely event that the National Hockey League which, as we know, is engaged on a daily basis with international charity and philanthropy might decide to relocate that franchise to Phoenix or Anaheim or God know where. When I drive by the Palladium, I wonder what would we ever do out here, God forbid, should we not have a National Hockey League franchise? Does the RMOC get a chance through the planning process to speak to those kinds of things before final decisions are made?

Mr Andrew Hope: I'll attempt to answer for our department. It was quite clear that the original thrust of the proposal was for the NHL franchise. It's quite clear that the hockey season is quite short. There are a number of other events that are held at that event and will continue to be held at that event. It is truly multi-use. If the franchise moves, that's regrettable. Certainly I think the region will suffer—small r that is—and that they'll have to presumably change the programming of the event. I should say the facility, but that doesn't suggest that the facility's going to disappear obviously.

Ms Churley: Were you consulted by the government on the planning reform at all?

Ms Thorsen: We participated in discussions, yes.

Ms Churley: In what capacity?

Ms Thorsen: We discussed with staff the direction in which the legislation was heading back before it was submitted.

Ms Churley: Would this have been face-to-face meeting in staff office, by telephone, documentation? How was it done?

Ms Thorsen: No documentation, I don't think. We had staff members of the Ministry of Municipal Affairs and Housing attend our meetings, our regional planning commissioners' meetings to bring us up to date. We've submitted position papers, that sort of thing.

Ms Churley: AMO has taken an overall position on the bill. Do you agree with AMO's position overall? Do you have some differences?

Ms Thorsen: I don't have a copy of their final brief, but I would anticipate that there will be differences. AMO represents largely the lower-tier municipalities. It also has a large proportion of its members on its board of directors who are from the smaller municipalities rather than the urban areas and I would anticipate that the slant will be more in that direction.

Ms Churley: You see that there are some real differences in approaches to planning between the smaller and the larger?

Ms Thorsen: Yes. It depends where you sit. If you're sitting in an urban region, obviously your perspective is

different; plus the fact that the regions are largely responsible for the major servicing responsibilities, sewer, water and major roads, waste disposal and so forth, so they have a real interest in making sure development is sensitive to the region's needs. We also have approval authority for local official plans and amendments and subdivisions and condos.

Ms Churley: So here it's really big difference.

Ms Thorsen: Quite a large difference, yes.

Ms Churley: On another track, do you feel that public participation is important to the process, that in the long run you have better planning decisions, or do you find that it tends to be a necessary bother that you have to go through?

Ms Thorsen: Oh, I think it's very important to have public participation.

Ms Churley: Do you feel this bill, with the changes and the actual lessening of days that people have to study plans and get all the documentation—do you feel that's a problem for people, that people are going to have less time to get ready for hearings and appeals?

Ms Thorsen: Our feeling was that the time limits were manageable provided all the information was there; that was a critical issue.

Ms Churley: I notice that you in fact mention that you worry that the financial needs won't be there to make sure that documentation will be ready. Is that a concern of yours?

Ms Thorsen: I don't know whether the lack of financial resources would really affect adequate information. We find that the more experienced developers and consultants will provide all the information that is required whether or not it is prescribed. It's the less experienced consultants and the people who are not developers who will come in with very little, and they haven't a hope. With the time lines that are being proposed, they haven't a hope of going through the process, so it would better if they knew up front what was required and we will be encouraging pre-consultation so that before they've put in their application they know. But there's no requirement, by Bill 20, that they provide all this information.

Mr Hardeman: Good afternoon and thank you for your presentation. First of all, just a clarification or question: Is there any member of the 13 regions that is not presently a member of AMO?

Ms Thorsen: I don't think so, no. I think they all are.

Mr Hardeman: Thank you. I just—

Ms Thorsen: You're outnumbered.

Mr Hardeman: I happen to come from one of the 13 regions so everyone considers me somewhat rural. I'm just wondering, on page 4 of your presentation, item (ii), to amend section 17, "to allow the determination of official plan exemption status to be delegated to a committee of the approval"—could you explain that just a little more for me, to clarify that?

Ms Thorsen: We thought it would expedite the process if there was either a committee of council or staff who would review applications once they'd been received and determine whether there was a regional interest in some respect. Because often an official plan or an amendment—not an official plan, but an OPA amend-

ment, would be of no interest to the upper tier, but there may be cases where superficially it looks as if it's of no interest but it might impact a regional road. It could have a major effect on our major servicing.

For example, the University of Waterloo in my municipality is the largest water user in the region, of any facility. They could be proposing an expansion and, on the face of it, that isn't of significance to the region. We don't care. But in terms of the water capacity, it could have a major effect, so we need to know the details of the application.

Therefore, it was our feeling that the exemption could be reviewed and it could be determined on a site by site. Whereas, if you do it on a blanket basis, it's conceivable that, for example, site-specific official plan amendments would be exempt and that could create difficulties.

The Chair: Thank you for your presentation. We appreciate your taking time to visit us this afternoon.

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SORBARA GROUP

The Chair: Our next presentation is from the Sorbara Group. Good afternoon.

Mr Leith Moore: Good afternoon. I was going to make a brief presentation and then answer questions, if there are any. So I'll be relatively brief.

I'm very excited; I've never been here before. I took a tour on my way in.

The Sorbara Group is a private land development company. I have been working with them for about 15 years. We're a development company that's involved in land development and construction. We're in residential and industrial. We do a little bit of office; we do a little bit of retail. We have been active since the 1940s. We've probably been involved in certainly every municipality in the GTA and a few outside of it, and I'd say we're currently active in all of those municipalities, either as an active developer or as a landlord in one form or another.

As I said, I've been with the Sorbara Group for 15 years. I'm, fortunately or unfortunately, a planner by education, with a University of Waterloo planning degree.

I'm here today largely to say we like Bill 20 and the changes that are being proposed. If I could summarize why, it's really because the Planning Act, in our experience, and mine in particular, is basically a template. So much of what actually goes on in the process goes on outside of what is written in black and white in the Planning Act. The process is the process. The Planning Act for us is the template around which it's organized and it's the thing that we fall back on when things don't work. I think that's really where the importance lies and where the gist of the things that we like and the thing we'd like to see changed in the proposal lies; it is that safety net as such.

The basic organization of it that we like is the intention, as we read it, to say local municipalities will be making most of the planning decisions. The province is going to articulate its interest and set it out in provincial policy statements. The Planning Act changes that are proposed here through streamlining and one-window

approaches and a number of the details that you've no doubt heard much about really say people know what they're going to do and who's doing what.

That kind of focus is really important for us now. Municipalities have scarce resources; the province has scarce resources; the 16 developers left in business have scarce resources; people who want to come and comment on the plan have scarce time. So focusing it and doing it once and not having overlapping and not having duplication, and the local municipality knowing what it's to do and the parameters within which it's to do it, and for us to understand that, is key. I think we see the bulk of the changes proposed in Bill 20 now falling within the parameters of achieving that objective.

The one key concern I have in particular relates to the OMB and the fact that minor variances aren't going to be heard by the board. I think that's important; our company thinks that's important. The changes proposed in Bill 20 that allow us a direct appeal to the OMB are important as well. I see the OMB becoming increasingly important in the next short while. We think that should be the direct route of appeal on all planning applications, in any instance.

We are active in both development and redevelopment. Anecdotal information may not be the basis of good policy, but it certainly informs out day-to-day work. In trying to do redevelopment projects within Metro Toronto, we certainly attract a great deal of opposition. There's a much wider range of interests that might be interested and might have a problem with your project. Having the time frames that are referred to in this act and also having the board available with a range of alternative dispute resolution mechanisms and perhaps even, if it could be done, a more streamlined point at which you arrive at a board hearing I think is maybe the one single most important thing that can be achieved right now.

People are not going to invest in redevelopment projects if they're going to be wound up for years, as we have been on a number of ours, before they get to a decision. If you are faced with having to spend millions of dollars in carrying costs and consultant fees and lawyers' fees to find out if you have a project, there will be few proposals. So streamlining the timing of getting to the board and streamlining the timing within which that board decision is reached and perhaps having it involved sooner on dispute resolution are themes that I think are increasingly important. All the provincial policy statements seem to be trying to encourage redevelopment in addition to new development, so that kind of board referral mechanism and timing is key.

I said I would be brief. That's really the few points I wanted to make. Our company has been a member of the Urban Development Institute for as long as I've been with it and far beyond that; we've probably been a member for about thirty years. I know Mr Sorbara was once president himself. We are aware of and support the UDI submission that has been made to you as well. Thank you.

Ms Churley: I wonder if as a redeveloper you have any interest or any comments—I noticed that you haven't referred to it here—on the basement apartment issue, the

reversal back to it being in the purview of a municipality to decide whether or not that's allowed within its jurisdiction.

Mr Moore: As a redeveloper? We never saw a lot of change with the absolute, automatic right to have a basement apartment or a second apartment. It was like before the legislation it was a single-family house and after the legislation it was a duplex. To us, it was not comprehensible in any event. I think that those types of secondary uses need to be addressed, specifically planned for. They're appropriate some places and not others.

Ms Churley: Why do you say that? Why are they appropriate in some place and not in others?

Mr Moore: Certain houses aren't especially suited to become a basement apartment. Certain neighbourhoods aren't especially suited to it. Some that are, I don't know, a little closer to transit or are multistoried, larger homes that have been split into apartments—that seemed suitable to us, but just to say that they could be everywhere seemed to run against what was really happening anyhow.

Ms Churley: I know that this isn't your main interest, but we're into it now. I just find it peculiar that there could be limitations on a privately owned house, property owned by a private citizen who is paying taxes, that the person would be restricted from doing what he wants in his or her home as long as it fits within proper planning and proper fire and safety codes. I just don't understand what this party and people who are involved in the work that you do—I can't understand; it seems to be a contradiction. I really am trying to understand what this is all about, why you would feel this way, that it's okay in some neighbourhoods, not in others, and that municipalities should have a say. Whereas in so many other cases the general position seems to be that government should stay out of people's faces as much as possible, yet in this case you say there should be real restrictions on private property.

Mr Moore: I'm not saying there should be an automatic restriction against it everywhere, but neither am I saying it should be automatically permitted everywhere. I think you have to approach it from an end product point of view. Frankly, almost everything that all of us do in this business is related to the process and how we get from point A to point B, and very little time is spent on what it is we're going to do when we get there and what it is we're building.

I think to say that basement apartments or secondary apartments everywhere is okay isn't necessarily addressing the question of what kind of accommodation it is and what kind of apartment it is. Perhaps if people focused on that, the where it could go is easier once you know what it is you're doing.

Often what I heard about it—we never availed ourselves of it, and I used to own a home—is that it just made everybody a developer. Every resident who owned a house became a developer. How many would take advantage of it? My perception of it was it was a larger conceptual problem than a real one, and whether it's there or not there I didn't think made a big difference. The places that really want it and can meet the codes and guidelines and have the right product I think should have it.

1430

Ms Churley: Okay. I like your last line. That seems fair. We agree on that. I didn't mean to take up all our time on that. Your answer was quite intriguing to me, so I did get into it.

Have you found in your experience in your work that a large part of the slowing down of the process has been not the act itself but the bureaucracy slowness, within ministry departments, within municipalities, and do you see a need to deal with that as well as some of the other processes and red tape?

Mr Moore: It really varies situation to situation. Sometimes we create our own red tape. I like some of the initiatives that exist about pre-consultation, about getting a decent enough amount of information. I don't think we should have to have built our project to prove that it could work, but I don't think we need to sign our name to an application form saying we're going to build something. There has to be sometimes enough information to make a decision. I haven't encountered huge problems staffwise. Yes, between ministries, huge delays. If somebody could sort out who's doing what, having three or four agencies, whether they're an agency or a government department, commenting on the same thing from different points of view—three guys in stormwater and two guys in environment—that'll drive us crazy. That causes time. But most of the delay is because the system's the system and a lot of people know how to play it, and if you're opposed to a project, without time frames and direct appeal rights—we've been in one that everybody in the world except for a few people supports, and three years later we're coming up to a board hearing. That's frustrating and that has cost a lot of money. It's not necessarily just staff; it's often those people who—

Ms Churley: The public.

Mr Moore: The public. It's fair enough if they want to be opposed. Let's be opposed; let's make a decision. But to know that you can drag it out for years and maybe bleed somebody to death before you get there and that's the way to stop it, that seems inappropriate.

Mr Galt: Thank you for an excellent presentation. You were referring in one of your positive areas about the timing and streamlining the time frames. Do you see anything negative for the public, that it's moving too fast, that they won't get a fair hearing? Do you see any problem there?

Mr Moore: No, I don't. I think that, again, oftentimes there are several public hearings held. I guess what we're talking about is a statutory public hearing which would flush out the issues. If a good application has been made and people comment on it and they have a public hearing, then everybody has a chance to say it up front before it goes 18 months into the process to find out there are some concerns. I like the idea of getting the concerns out on the table up front.

Mr Galt: So you don't see it as a problem, interfering with the democratic process. Getting rid of some of this bureaucracy, red tape, whatever, process—do you see this as a step in the direction of affordable housing?

Mr Moore: Affordable housing and timing go hand in hand. How much money we have to spend on getting to the end really affects the end cost. It wasn't too many

years ago that we had an affordable housing crisis, and today almost everything's affordable. As a matter of fact, a lot of things went down in price on our end and there are some costs that have remained fixed, but that's another debate.

Mr Galt: There's a lot of concern about creating jobs and getting on with things. Do you see Bill 20 as being a help towards creating jobs?

Mr Moore: I really do. I know what we'd like to do, and if we can get some of our ideas and work on our ideas and what we want to build rather than spending a lot of money keeping our law firms busy, and that's what I see streamlining doing, then I think that's good for everybody.

Mr Smith: Welcome. I certainly hope you enjoyed your tour of the facility.

Mr Moore: Lovely.

Mr Smith: You mentioned in your introductory statement that you are a graduate from Waterloo, and I'm assuming you have an honours degree in environmental studies.

Mr Moore: Yes.

Mr Smith: Given that and your professional background, and you alluded to the "have regard to" test, do you feel the change in that area will in any way impede your ability to adequately consider the environmental considerations that were opposed under 163?

Mr Moore: "Have regard to" instead of "be consistent with"?

Mr Smith: Yes.

Mr Moore: I don't have any problem with "have regard to." There are many examples in the GTA today where there are extremely rigorous studies—there is a board hearing going on in Richmond Hill that's been going on for about eight months now—all related to environment. So I think that people are having regard to it and it's rigorously reviewed and examined, notwithstanding the wording. "Have regard to" allows the municipalities to, with a little bit of flexibility, know what the rules are.

Mr Gerretsen: I would like to just follow up on this notion of administrative time delays, both within ministries and within city hall, planning staffs etc. You made some reference to that in the answer to Ms Churley. Would you not agree with me that this is really where all the time is taken up, rather than in meeting the various time deadlines as set out either in Bill 163 or Bill 20?

Mr Moore: Yes, I would.

Mr Gerretsen: Your notion of the one-window approach, and as contained in the act, is certainly something that I think most people can relate to, because at least you would know which ministry is the lead ministry. There's been some concern expressed about how that's really going to work, whether or not the Ministry of Municipal Affairs and Housing is going to broker situations where there may be different competing interests for different ministries, versus the notion that if one of the ministries feels strongly enough about a particular situation and wants to appeal, the Minister of Municipal Affairs would basically do this, as he's the lead minister, on that ministry's behalf. What is your understanding as to exactly how the process will work within the Ministry of Municipal Affairs, from a practitioner's viewpoint?

Mr Moore: I have to be honest and say I'm not exactly sure I know how it will work. We know that one window should be an improvement. Whether they're going to broker or simply represent, I don't know. I hope there'll be some brokering going on. There needs to be a substantial change here. Everybody's concerned with their end of the process and their bit of the turf, and I don't know who it is who feels responsible for, "What is it you're building, and why, and do we like it?"

We have municipalities and regions and the province and agencies, and we have to go incrementally through one after the other to explain over and over again and get all the requirements layered on. We'd really need to be able to say, "We would like to build this, what's your concern?" and deal with somebody who has some responsibility and authority to respond, and not just—

Mr Gerretsen: Would it help you if you actually got an administrative bulletin that set out exactly what each ministry is looking for and the steps that are taken in the process? I'm not talking about the application steps so much, but a more detailed administrative guideline rather than a legislative guideline. Would that be helpful to the development industry?

Mr Moore: If you were going to do it, administrative would be better than legislative. With that guideline, better you had somebody there who knew how to use it and had the authority to use it. There are a tremendous number of great people in all aspects—government agencies, developers—lots of good people.

Mr Gerretsen: Actually take some of the ministry people and planning staff people and have them work the other side of the fence for a little while, just so they know what kind of problems you can run into and how the other guy feels. Agreed?

Mr Moore: Yes.

The Chair: I appreciate your taking the time to make a presentation, and for your first visit you have the unique privilege of knowing your words have been recorded in Hansard.

Mr Moore: I'll send it to my mom. Thank you.

The Chair: Our next group up is the Automotive Parts Manufacturers' Association. We have people pointing and gesticulating at the back.

Ms Churley: They're not with Bill Murdoch, are they?

Mr Murdoch: Were you waiting on me? I didn't know you quit just because I left. I really appreciate that, Marilyn.

1440

AUTOMOTIVE PARTS MANUFACTURERS' ASSOCIATION

The Chair: Good afternoon, Mr MacDonald. Glad you could join us. We have 25 minutes for your presentation which will be divided between your talk and question and answer, as you see fit.

Mr Ken MacDonald: I understand. I kept you waiting and I apologize.

The Chair: No, only a few seconds.

Mr MacDonald: I appear on behalf of the Automotive Parts Manufacturers' Association. Briefly, that's a national association that represents about 90% of the companies that supply to auto manufacturers in Canada.

That industry is situated predominantly in Ontario, representing about \$21 billion in GNP in the last year and investing in 1993 about \$1.1 billion in new factories and the furnishings for those factories. So the Development Charges Act can have a bearing, clearly, on our industry.

Clearly, as well, because the vast majority of our members supply their products to the Big Three—the Big Three auto makers are their customers—you could imagine that all their costs are subject to as great a scrutiny or as close a scrutiny as any supplier in any industry would encounter, and accordingly, sometimes the smallest factors and costs will affect the decision to buy from a supplier north or south of the border.

Against that backdrop, our views about the Development Charges Act, the regulations in Bill 20, let me start off by saying we are pleased, no question about it, to see the government undertake a review of the DCA. Development charges are, especially in their present form, a potential barrier to the establishment or expansion of business in Ontario.

The thrust of Bill 20, of course, is to require municipalities to obtain the approval of the minister for any new development charges bylaw. We understand also that Bill 20 is intended as essentially an interim transitional measure pending a more fundamental review. None the less, it is important that the requirements for a valid development charges bylaw be set out in the DCA. If instead the minister is given broad discretion over the content of these bylaws, our concern is that this approach could lead to a relative lack of uniformity across municipalities in respect of their charges.

We're going to be presenting today a proposal for a fairly ambitious reform to the act and also to ask that this ambitious reform be incorporated in Bill 20 at this time.

Under present law, the municipality sets the amount of the charges based upon a 10-year projection of its infrastructure development needs—industrial or residential—for the whole community. Hypothetically, that new infrastructure may be exclusively residential or may be located in one particular geographic area of the city or town.

The construction projects upon which those charges may then be imposed, however, may well be industrial, not residential, or may well be located in a very distinct other geographical area. In many situations, there may be no relationship between the works for which these charges are levied and the industry or the company paying the charge. Put another way, the industry is neither responsible for the need for the new infrastructure nor will it enjoy the benefits of that infrastructure. Indeed, our members have brought to our attention two recent instances, Cambridge and Oakville, where municipalities have imposed development charges, each in the millions of dollars, even though the construction projects in question would not involve any new infrastructure requirements that would have to be built by the municipality.

The requirement, set out in subsection 3(1) of the DCA, that charges may be imposed, and their wording is "against land if the development of the land would increase the need for services," that provision has not been effective to limit the imposition of charges. Municipi-

pal law practitioners have advised us that municipalities have gotten around that by simply saying any development increases the need for services, at least in a sense sufficient, in their view, to justify the imposition of the charge.

We believe the DCA should be revamped to include an unequivocal requirement, that the act should require the bylaw to stipulate that a development charge be imposed on a property owner on a site-specific basis only where construction undertaken by that owner would necessitate additional infrastructure being built by the municipality.

We find inexplicable and unfair that the subsection 3(7) exemption in the act for services installed by an owner at the owner's expense is limited. We propose then that the DCA stipulate that bylaws must specifically state that development charges may be imposed only if the specific development of certain land against which that charge is to be imposed would itself increase the need for municipality built services.

In addition, the DCA should require that the amount of the charge be tied to, indeed limited to, the municipality's reasonable costs of building that additional infrastructure. More than that, the DCA should require municipalities to provide to the owner details not only of the actual costs, but also in the case of tenders being let for the services, details of those competing bids so as to make possible informed scrutiny of the development charge amount.

There are several reasons we have that would support such a reform. First, the development charge being closely linked to the actual infrastructure needs engendered by that construction project will be perceived by would-be investors as being more equitable. Second, the reform would create an incentive for investors to build their own infrastructure at their own expense.

We recognize that some municipalities provide a credit to such investors that build their own infrastructure at their own expense as provided under sections 9 and 13 of the act, but there's no obligation on municipalities to give that credit. The two instances we referred to before were cases where such a credit either wasn't given or was laughably inadequate.

I might add as well that an investor would probably prefer not to have to deal with the paperwork, the dealings, the negotiations over the size of that credit. I surmise that an investor who would be building his own links to water, links to sewer, etc, would rather do it on his own expense and under the comfort that he will not be charged any tax or any charge in respect of that, not to get into details about the size of the credit.

Third reason: Would-be investors would generally not have given input into those 10-year projections I referred to, either because they were not operating in that city at the time that the projections were made or because they were mired in recession perhaps at the time and therefore not anticipating any expansion. Section 4 of the act provides for appeals to the OMB from the passage of a bylaw but also sets a short limitation period so that would bar these investors from bringing such an appeal.

Finally, we recommend that the DCA require that property owners be given the option of paying a development charge in instalments rather than as a one-time charge payable up front. Right now the DCA permits, but

does not require the municipality to agree to payments after the date of the building permit is issued. Let that be a requirement under the act; otherwise it's easy to surmise circumstances where the owner, small business, not even yet starting its operation, therefore, having no cash flow, finds the charges a significant barrier.

Those are the submissions. I'd be more than pleased to clarify anything there or take any questions.

1450

Mr Hardeman: Thank you for the presentation. I would comment that the presentation does actually deal more with the revamping of the Development Charges Act than it does to that portion in Bill 20 that refers to development charges. I appreciate you mentioned that at the start of your presentation. I would hope that you would forward your presentation to the ministry as it reviews the Development Charges Act.

I would just question if you could maybe point out to me how you envision the developer or the industry putting in the infrastructure beyond their properties on their own initiative, provided they did it under the municipal standards, and how they would then deal with the industry between that and the sewage treatment plant and how they would recoup their cost. Under the present Development Charges Act, it allows for a special agreement so the municipality can charge it back to others. How would you envision that the developer would do that on their own and not have the municipality involved in the development charge?

Mr MacDonald: There are at least two instances where in fact the work was carried out, as I say, at the builder's, or investors' company's, own expense. No doubt there was close consultation as to exactly what the specifications of the links to what would be, the links to sewer. The precedents are there in terms of that being done with cities finding ways to deal with investors that are inclined to build that way.

The other issue, of course, not to lose sight of it, is situations where, yes, the city does have to, practically, maybe just because of the geography, build some of the links. Maybe the owner builds as much as he can but, practically speaking, the city must build some of the new infrastructure, and yet maybe the charge doesn't reflect the fact that some of the work has been done at the expense of the business owner.

Mr Hardeman: Your position then on development charges too would be that they should only be related directly to the hard services that that industry is going to utilize as opposed to covering some of the costs of other services that the population will need in the future?

Mr MacDonald: The focus is that there should be a clear common link between XYZ company building its new factory there and the charges for which XYZ is being charged. It may not be simply as direct as building the actual sewer from XYZ to the main sewer. It may well be that because XYZ is going to be bringing 20,000 new people into a town, the charges will have to reflect that. On the other hand, if there is no new employment resulting from the expansion from that building project, then they ought not to be paying charges in respect of new schools or in respect of widened streets etc.

Mr Hardeman: You would agree then that there is a correlation between the generation of the population and the generation of the industry. There should be some payment of development charges by industry to cover the cost of the infrastructure for the population?

Mr MacDonald: You're alluding to population increase.

Mr Hardeman: Yes.

Mr MacDonald: Where an increase can be attributed to that business expansion, I can see the argument. The urgency of our being here today is because there are instances where a business expands capability without adding staff, or without adding significant staff, and yet has been charged for roads, for schools, for things which are presumably supported on the argument there's going to be increased population, but no increase that can be attributable to that employer, to that company.

Mr Gerretsen: Your presentation mainly has to do with changes to the Development Charges Act, a process that I guess the ministry is undertaking. I take it then that your basic position is that with respect to the bill itself, it basically states that municipalities can extend any existing development charges under the act, but they can't make it any more onerous on developers than it already is. You would agree with that position, I take it.

Mr MacDonald: To extend existing bylaws?

Mr Hardeman: Yes.

Mr MacDonald: Bylaws of course do under the act expire after five years. So that gives us some comfort in respect to concerns such as—

Mr Gerretsen: No, but there's a provision in the current bill, the bill that's before us, that any existing bylaw can be extended as long as it isn't made any more onerous than it is right now. You would agree with that position, I take it?

Mr MacDonald: Not every bylaw will provide for such things as instalment payment of a charge or will provide for credit to be given in an instance, as I say, where a business bears some of the expense of new services. So such bylaws as those, no, I wouldn't favour their being extended, not without those aspects being amended, without a new DCA that states that these requirements shall be built into a bylaw. That would be a concern. To miss those factors and just allow an existing bylaw to be extended, no, that would be a concern.

Mr Gerretsen: So you don't think a development that's being done now should in any way, shape or form pay for any of the infrastructure that's already there? That's your position?

Mr MacDonald: They are of course paying municipal taxes on a year-to-year basis.

Mr Gerretsen: Oh, yes.

Mr MacDonald: The development charges are charges imposed to pay for new structure, new services, as per that 10-year projection. So we're not even talking about covering the cost of existing services today. I don't see that to be on the agenda.

Ms Churley: Thank you for coming to present to us today. This is a comment. I find it really interesting that this government wants to give municipal autonomy to different regions to do their own planning, make their own planning decisions. We hear over and over again

from government members, when I, for instance, have opposition to autonomy in various aspects of the bill, don't I trust regional councils to make the best decisions for their regions? So we will end up with, say, a patchwork of environmental protection. I find it interesting in this one why the province feels that it needs to reach in and tell municipalities how to settle their development charges, especially at a time when the government is cutting back municipalities up to 47% in transfer payments. I think that's a bit of a contradiction.

None the less, there are therefore concerns that there will be restrictions put on the charges at a time of cutbacks. You have to ask, who's going to pay for—and I don't know if you're being specific here or not—the soft services, for instance, that new communities will need, new development: schools, libraries, community centres, all of those. Will the general taxpayer end up paying for those, or how do you see that working out? At the end of the day, somebody's got to pay for it.

Mr MacDonald: I guess two comments in response. One is, I'm not so sure there is a contradiction to be seen in the government's decision to have municipal approval for any bylaw. It's quite consistent with their war against barriers facing business, particularly startup business.

Ms Churley: That's true. The environment is another story, yes.

Mr MacDonald: The other half of your question, it may be the case—I can see this hypothetically—that the reform we propose doesn't even result in a significant downward decrease in the amount of revenue raised. It's more a matter of, let those who create the need for infrastructure costs carry their own weight, as it were, to let the user pay philosophy.

Ms Churley: So-called soft services could be included in that then?

Mr MacDonald: Soft services, for example, libraries?

Ms Churley: Yes.

Mr MacDonald: If an employer is going to bring about an increase in population of 5,000, we wouldn't argue that the costs of new schools—I mentioned that before—libraries, if they're warranted as a result of a 5,000 population increase, shouldn't be attributed to that business and part of their charge. But I doubt very much that the entire cost of a new library is ever going to be attributed to one particular employer.

The Chair: Thank you, Mr MacDonald. We appreciate your taking the time to make a presentation today.

1500

ASSOCIATION OF MUNICIPALITIES OF ONTARIO

The Chair: Our next group up is the Association of Municipalities of Ontario. Good afternoon.

Mr Grant Hopcroft: It's a pleasure to see so many former AMO members and municipal officials around the table today. I'd like to thank you all on behalf of AMO and our president, Terry Mundell, for the opportunity to appear today to provide our reaction to Bill 20, the Land Use Planning and Protection Act. My name's Grant Hopcroft. I'm deputy mayor of the city of London. With me today is Gary Cousins, director of planning in Wel-

lington county and a member of the AMO board and of AMO's planning task force.

As many of you know, AMO represents over 700 of Ontario's 815 municipal governments, ranging from the rural section to the northern section to the small urban section, large urban, regional and county sections as well. The remarks today reflect the input of all of our sections and have the endorsement of all of our sections as well.

I'm going to address the key changes to the Planning Act and related legislation and conclude with comments on the changes to the Development Charges Act. Table 1, which is attached to the presentation, has a complete list of AMO's recommendations for the bill.

As many of you know, AMO has worked on planning reform for the last five years. During this time, we have provided many submissions to the Sewell commission. We have articulated recommendations on Bill 163 to the previous government and provided advice to this government, relying on our past work and municipal government experience with Bill 163. Our goal has been to clarify the provincial-municipal role in planning and to obtain the recognition that municipal governments are the most appropriate level of government to plan for their communities and to oversee the local planning process.

As you may know, AMO petitioned this government to not repeal Bill 163 in its entirety, since municipalities believe that some of the legislative amendments contained in Bill 163 were a step in the right direction. However, we believe that improvements can be made to achieve AMO's principles for reforming the system. These principles haven't changed and continue to be:

(1) To empower municipalities and recognize the value of municipal diversity, local accountability and municipal autonomy;

(2) To streamline the process—and we understand this is a goal we share with the government—and cut red tape so that the system is timely and efficient and supports sound municipal decision-making; and

(3) To integrate environmental and social values with economic considerations so that municipalities can plan and manage local needs and circumstances to make for strong and sustainable communities.

Many of the amendments to the Planning Act contained in the bill reflect the recommendations that AMO has been promoting. We are pleased this government has chosen to listen and to act and to recognize that municipalities are in fact a strong and vital order of government. The proposed changes go a long way towards recognizing that municipal governments are the most appropriate, responsible and accountable level of government for land use decisions. We are also pleased that the bill deals with the diversity of communities and has provided alternatives to the one-size-fits-all approach of Bill 163.

Bill 163 significantly strengthened the province's control over land use planning policy matters and left municipalities with the authority to make development decisions within a very constrained and restrictive policy and legislative framework that did not allow for local discretion. Bill 20 corrects this.

Bill 20 deletes the ability of the province to prescribe "any other matters" to be of provincial interest. The province will no longer have the unfettered ability to

declare, by regulation, a matter to be of provincial interest, thereby circumventing the legislative and public consultation processes, and AMO supports this change. It will bring some certainty to the municipal level regarding provincial intentions.

The bill also proposes to assign approvals of official plan and plan amendments and subdivision approvals to counties, treating them as other upper-tier levels of government. It also proposes to delegate authority to planning boards. As most counties and planning boards do have qualified planning staff and many have official plans, this proposed change will streamline the system by moving the approvals process out of the Queen's Park bureaucracy and making it more accessible and open locally.

The association is also pleased that the regulatory provision for prescribing the mandatory content of official plans is to be deleted. The province has other, more appropriate ways to influence how provincial policy interests are reflected within local circumstances. This action indicates this government's trust of municipal governments and recognizes the ability of our professional staff to determine the content of their plans.

Finally, the bill restores municipal authority for zoning accessory apartments. Along with the ability to inspect and register these units, municipalities will have the tools to properly plan for these uses and ensure the health and safety standards required by our residents are met.

If I can divert from the text for a moment, speaking as an official from the city of London, we are extremely pleased to see these provisions in this bill. AMO believes that the Ministry of Municipal Affairs and Housing is the province's lead provincial planning agency, and we do support making it the provincial ministry to file an appeal on a municipal planning decision in those rare circumstances where an appeal is deemed necessary. Therefore we should no longer see several ministries battling it out at the OMB, but rather the province speaking with one voice on a unified issue. The government is to be congratulated for attaining this critical feature.

The ministry also should be the coordinator for provincial input into official plan programs. All other ministries with interests that impact municipal land use planning should reflect this front-end, coordinated approach in their business operating plans.

The proposed order exemption approach by which the minister may exempt municipalities from the minister's approval of official plan and plan amendments recognizes the diversity of municipalities. It recognizes that the province does not have to oversee or approve every municipal planning action or decision. It has the real potential to streamline the process, but only if the minister takes substantive action to limit the types of official plan or plan amendments that will require ministerial approval. To ensure that municipalities are appropriately prepared, discussion on the scheduling and content of the orders for those municipalities whose plans will be exempted should proceed as soon as possible, with orders issued shortly after proclamation. The minister has a clear opportunity to demonstrate the government's commitment to getting out of the approvals business, and we expect no less.

We also support making the time frames identical for the giving of notice and appeal periods in all of the planning processes. We feel this will improve coordination and help the public who may be confused by the different requirements.

The changes to the Heritage Act and the Municipal Act will also facilitate the planning process to make it more efficient and effective.

Bill 163 did not adequately integrate and balance the numerous policy interests in land use planning. AMO believes that the rigid operating clause "shall be consistent with," along with today's Comprehensive Set of Policy Statements, are overly directive and prescriptive. They limit municipal decision-making authority. "Shall be consistent with" requires conformity with each policy without recognizing the possible conflicts between these policies when applied to local circumstances.

We are very supportive of returning to the "have regard to" operating clause. It readily acknowledges the need to balance what are often conflicting policy interests. The association believes the term "have regard to" has been applied effectively in the past.

AMO has also promoted policy statements that focus on objectives or outcomes rather than the detailed, prescriptive approach of the current Comprehensive Set of Policy Statements. Municipalities are responsible for determining through official plan policies how best to achieve provincial objectives within the local context. Since planning, by its nature, is the resolution of competing interests, municipalities should be responsible for resolving those conflicts in their communities.

Some groups have claimed that provincial policy related to environmental protection has been weakened. There are clear environmental objectives in the draft statement with an expressed provincial interest in water quality and quantity, protection of sensitive land uses, natural heritage and energy conservation, to name just a few. Environmental protection is not exclusively the standard of just special-interest groups. It is part of our mainstream thinking and is part of our community values. As elected officials, we lead and respond to these values, and municipal governments can be trusted to act in support of the environment.

The change to the operating clause, together with a complete set of outcome-based provincial policies, gives us the opportunity to make official plans true municipal documents that have meaning for our communities. Municipalities, the development industry and the public need assurance that local interests and needs are not of secondary consequence.

How can Bill 20 be improved? While the bill has gone a long way towards meeting the association's principles, there are several recommendations that will further streamline the process and provide municipalities with better tools to manage the planning system efficiently and effectively.

First of all, a policy-led system: It is recognized and supported that the province should set out its policy interests in municipal planning and that municipalities should have regard to these policies. However, when those plans or amendments are approved or come into effect, they should replace the provincial policy statement

as the document guiding development. A provision is needed that indicates that once an official plan or amendment is approved and in effect, it is deemed to have regard to provincial policy. Currently, any implementing action, whether a plan of subdivision, a consent or even a rezoning, must be evaluated against the policy statement as well as conformity to the official plan, notwithstanding that it has already incorporated provincial policy. This seems redundant.

1510

The official plan should be the point of closure for land use policy promulgation. Without some point of closure, we cannot achieve a policy-led system. A deeming provision supports provincial policy implementation, strengthens the role of official plans and streamlines the process. It may also encourage municipalities to review their official plans and address provincial interests sooner rather than later, since there would be a greater impetus for a municipality to invest its time and expense in an update program.

We therefore recommend that subsection 3(5) of the Planning Act, as set out in section 3 of the bill, be further amended so that the intent is achieved as follows: Until an official plan or plan amendment comes into effect under Bill 20, the provincial policy statement will be used in the preparation and assessment of official plan or plan amendment and other planning approvals required by the act. Once an official plan comes into effect, the official plan will replace the provincial policy statement and be the instrument guiding the minister, council, planning board etc in carrying out their responsibilities.

As a final point on this recommendation, the concept of "deeming" has been included in the draft provincial policy statement in relation to provincial plans. It indicates that once a provincial plan under the Ontario Planning and Development Act or Niagara Escarpment act has been approved, the policies of that plan apply and take precedence over the policies in the planning statement. Municipal official plans should receive similar status.

While the association supports efforts to streamline the system, it is concerned with the reduced time frames for decision. Municipalities dealing with a large number of applications feel the time frames will be very difficult to attain. There is no evidence that the time frames in Bill 163 are inappropriate, and the association prefers to see them retained. Altering the time lines may create unreasonable expectations and places additional pressures on already overextended staff or reduced staff complements brought on by reduced provincial transfers and other pressures.

In addition, for the official plan process, the bill requires municipalities to have the current proposed plan available for public review at least 20 days prior to the public meeting. This means that staff have to draft an amendment within 25 days of receiving the application. This will divert time from the analysis of the planning application and from technical liaison with agencies. As well, the presentation of a draft amendment can give the public the impression that council has a level of commitment to the development proposal even though that is not necessarily the intention. In other words, if you've taken

the time to pen it, you must have some level of ownership.

It would be more appropriate if the bill took the approach that the Planning Act requires for zoning bylaws. Subsection 34(12) of the act requires that council "shall ensure that sufficient information is made available to enable the public to understand generally the zoning proposal that is being considered." This has served the process well, and we recommend that a similar provision be substituted for the wording proposed in subsections 17(15), (16) and (17) contained in section 9 of the bill.

Municipalities are also concerned with the ability of the applicant to appeal an official plan matter directly to the board if no notice of public meeting has been issued within 40 days of the application being received, or if no decision is made within 90 days. This is particularly worrisome if an applicant decides not to provide adequate information with an application. Under the system proposed, it's possible for an applicant to totally bypass the local process and go straight to the OMB. This runs counter to restoring municipal decision-making and accountability.

We recommend that municipalities be given the authority to set out what makes a complete application, either through a municipal bylaw or official plan policies, and the time frame not begin until that information is received.

Currently, a complete application has very cursory information. This type of prescribed information is not adequate for council to make an informed decision. For example, a preliminary stormwater management report is not prescribed information for subdivision applications, nor are soil studies etc. How can a municipality make a sound decision that safeguards the interests of the community and the environment?

The prescribed information in the regulation provides no assistance to a council to determine the impacts of the development or whether the impacts can be mitigated and how. In the absence of adequate information, the only responsible recourse a council has is to refuse the application on the basis of lack of information and then prepare for the OMB.

We must remind ourselves of the intent of the complete application concept. It was intended to reduce the number of files contained within the planning system that had inadequate information in them and to make it clear to applicants what would be required. Bill 163 did not achieve this and neither does Bill 20.

If the Planning Act does not provide for municipal bylaws to establish what it considers to be a complete application, we recommend that there be some obligation imposed on the applicant, ie, to stipulate that where matters are appealed on the basis that council failed to make a decision within the time frame due to insufficient information, the board can only consider the matter based upon the information submitted with the original application. Alternatively, a criterion could be added that the board may discuss the matter without a hearing where adequate information was not submitted to the municipality. This is similar to the criterion that the OMB may dismiss a matter where an appellant has not responded to the board's request for information.

The bill proposes to delete the provision to dismiss an appeal without a hearing on the basis that water, sewer and road services are not available or anticipated.

Prematurity needs to be expressly contained as a dismissal criterion. Municipalities should not have to incur the costs of an OMB hearing where there is clear information that there is no capacity nor an anticipation of when future capacity will be available. The money and staff time spent on hearings could be better spent on getting the services in place and getting the local economy moving. AMO recommends that the prematurity criterion be retained in the Planning Act.

Municipalities also need to fully manage the allocation of servicing capacity. We support the proposed amendment in the bill which extends the regulatory provision to include all subdivision-condominium draft plans in an allocation system, notwithstanding when draft approval was given. However, this does not go far enough.

As more and more growth over time will occur through redevelopment and intensification, particularly through rezonings, section 70.3 of the act should be amended so that it authorizes a comprehensive system for allocating water and sewer services. This will aid in achieving the transparency on available capacity and support responsible municipal land use and financial planning for services. This is in the best interests of the province, municipalities, their taxpayers and the development industry.

AMO also recommends that approval authorities have the explicit authority to partially approve draft plans. Currently official plans, plan amendments and zoning bylaws can be partially approved. Extending this provision to subdivisions would streamline the process and assist in maintaining a supply of draft-approved lots.

On the issue of minor variances, AMO has a long-standing position that minor variances are a local matter and decisions should be reviewed locally. We should not forget that minor variances are not a right, but rather a privilege. They are intended to provide relief from standards of a bylaw when the circumstances are such that compliance with the bylaw is otherwise impossible. There are many cases where a variance application should have been a rezoning application. It is ventured that where a municipality has appealed a minor variance decision, the application was more than minor and most likely a zoning matter that should've been before council in the first place.

AMO supports the bill's approach for minor variances, including the option for a council to refer variances to the OMB as an appeal. This optional approach is consistent with AMO's principles. However, we do have concerns.

The bill, as drafted, does not allow a council to delegate to municipal staff the authority for making decisions on minor variances. Councils have this ability for other planning processes, including subdivision of land, and they should have it for minor variances as well. Section 26 should be amended by adding to proposed subsection 45.1(1) the ability to delegate minor variances to staff.

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We also have a major concern with the inability of a municipality to recover the fees and costs of an OMB

hearing when an applicant or another party is the appellant. This is totally inappropriate, as the municipality would not manage the hearing yet would be responsible for the costs. The OMB costs should be borne by the appellant, not the municipal taxpayer. Accordingly, we recommend that section 26 be amended by deleting the reference to "municipality" and substituting the word "applicant."

Amendments to the Development Charges Act we understand are only an interim measure until the minister has done a comprehensive review of this legislation. The minister has indicated his desire to review what services should be covered by a development charges bylaw and what are growth-related services. We have urged the minister not to change the act in any way that will further restrict a municipality's ability to recover the cost of extending municipal services through development charges bylaws, and we trust this provision will be repealed once the review has been completed.

In conclusion, we agree with most of the changes in the act. From a municipal perspective, the bill represents an improvement to the planning system, and we suggest and support the fact that the proposed amendments support streamlining and recognize local decision-making authority. We urge the committee to seriously consider its recommendations for improvements to the legislation as contained in our presentation and in table 1 attached to the presentation.

On behalf of AMO, thank you very much. We look forward to your questions.

Mr Galt: Thank you for an excellent presentation. We certainly recognize AMO as representative of the public of Ontario and part of that democratic process, carrying a lot of weight with your recommendations.

We've heard an awful lot in presentations, and especially from the opposition, that using the words "having due regard to" is going to totally destroy—maybe not totally, but have a marked effect on the environment, and they seem very concerned. You're very comfortable that with "having due regard for," that kind of statement, the environment will be well protected.

Mr Hopcroft: We are. The previous standard in 163 simply did not recognize that the decision-making in the planning process involves conflict resolution, that there are competing policies, competing issues, and one needs to have regard to those, but you can't be consistent with all of them and still reach a decision. We feel it's a much more logical approach, one that suited us quite well prior to the amendments in 163, and we're quite satisfied it gives us the authority to deal with the issues as they come forward.

Mr Galt: Could you just expand a little in connection with minor variances, suggesting the ability to delegate it to staff. Give me some examples that you were thinking of.

Mr Gary Cousins: That authority exists within the planning legislation today for both subdivisions and severance approvals. A council has the ability to delegate those functions to either a committee or to staff. It's not used that extensively. It's primarily delegated to committees, but some councils choose to delegate those functions to staff. I would assume that if it were tied to minor

variances, it would be delegated to staff with the possibility of a review by council.

Mr Murdoch: This is a fine report. It looks like the mayor of Kingston could've put that together in the 1980s sometime, but he may have changed his mind. He answered the minor variance. I just wanted to get that on.

Mr Gerretsen: Mr Hopcroft, for the length of time you've been involved with AMO, your public pension from AMO will be as good as some of the other public pensions around, because you deserve everything you can get out of it.

Mr Hopcroft: I love municipal government.

Mr Gerretsen: I know you do.

We've had a lot of comments about minor variances not being appealable to the OMB. As a matter of fact, not one person or one group has come to us and said it's a good idea. Even the city of Etobicoke was here this morning saying it's not a good idea, basically the notion that a decision ought not to be appealed to one's own body or a part of one's own body. Don't you as a lawyer feel that's the right thing to do, that if you're going to have an appeal, the same people who were involved in making the initial decision ought not to be involved in the appeal as well?

Mr Hopcroft: I'm not wearing my lawyer hat today.

Mr Gerretsen: But you are a lawyer. Come on.

Mr Hopcroft: I don't see any inconsistency with that at all. Issues come before committees and subcommittees and boards and commissions of local councils all the time. If you want to take that position to extremes, I suppose you could suggest that planning committee members shouldn't participate in council discussions because they may have already expressed a bias when the planning committee—

Mr Gerretsen: But ultimately there's an appeal to the OMB—that's the whole point—from their zoning and official plan decisions.

Mr Hopcroft: We suggest that in most of the cases that would be controversial, they're probably matters that should have been rezoning applications in the first place. If it's a matter of significance that really carries with it those kinds of substantive issues, in fact they should be rezonings, they should go through that full process, and of course they would be subject to appeal.

Mr Gerretsen: Another question. I've only had one question; they had three. This is my second question. I think what's always made municipal government work is its public meeting and public consultation process. I'm a great believer in that. I'm a little bit struck with the notion and the reason you give for why there shouldn't be a public meeting for subdivision approvals. You say "There is no evidence of the need for or benefit of the planning system for public meetings on plans of subdivision, as the principle of land use is established through the official plan."

Would you not agree with me that the official plan document is an abstract document and is totally different from an actual hands-on plan of subdivision so that the neighbours can see what's actually going to be placed on the land? To shove it off by saying, "The people had an opportunity to make representations on the official plan," is taking the easy way out.

Mr Hopcroft: If I can turn the question around, because you already knew the answer before you asked it, the issue for us is really whether that is a matter of provincial interest that needs to be dictated to municipal governments or whether we can make those decisions locally. We have in our community a public process on subdivision approvals that we will quite likely continue. But there are often cases where most of those issues have been resolved and there really is nothing served by going through that additional process.

Mr Cousins: There's also two other opportunities for public involvement in that process. The first is, as you've said, at the official plan stage. The other is at the zoning stage, which is far more detailed. And many communities, as Grant has already said, like to run informal public meetings as well during the subdivision process, rather than statutory meetings under the Planning Act.

Mr Gerretsen: You said "many communities," not all. I'm glad for your sake that the ministry listened to AMO, but unfortunately they didn't listen to the general public out there, which has an interest as well.

Ms Churley: Let me pick up on that. How do you define "special interest"? At the very end of your presentation you mentioned special interests. What is a special interest?

Mr Hopcroft: I think a special interest is whatever you want it to be in the appropriate circumstances.

Ms Churley: I want to know what you think it is.

Mr Hopcroft: I guess what we're suggesting is that we feel that as elected officials locally, we are accountable to all interests in our community and we should have the ability locally to balance those special interests rather than having someone from Queen's Park suggest which special interests should have a louder voice or more say in the process. We should make those decisions locally, and that's what we're saying.

Ms Churley: I should tell you, and you may be aware, that there's a real split. There are people who love this bill and there are people who hate this bill, and there seems to be not much in between, which in my view is a difficulty.

How do you explain to people like the 1,400 members from, say, the Lake of Bays Association—AMO has to convince them somehow that their fears are unwarranted. These are ordinary human beings who own property in a certain area who believe that public participation is being cut off, who believe the environment will be harmed, who believe pretty much the opposite of everything you say. I'd think that would be of concern to you, as you're accountable, as you said, to all these different special interests. They don't believe you and they don't believe this government that this is going to protect them.

Mr Hopcroft: I have no idea what presentation they made, so it's a little hard to respond in the abstract. But having been in government for over 15 years in London, I'm certainly aware of the fact that certain people can take comfort in any status quo, and they are afraid of change because it may mean that things will change. I think that's a realistic fear that most people have when faced with change. However, we think that municipal governments are elected the same way you people are. We make mistakes sometimes, the same as you do.

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Ms Churley: Even these guys? I want that on the record.

Mr Hopcroft: I'm referring, with respect, to all three parties. I think you have to have some faith in the fact that the local municipal electoral process has some merit and that good people will be elected.

Ms Churley: I was one once, just for your information.

Mr Hopcroft: I'm pleased to hear that.

Ms Churley: I was a municipal councillor, so I understand what you're saying. But I'll give you a copy of this so you can see the kinds of concerns, and this is coming from rural areas out there. I think a process needs to be put in place to deal with these very real concerns, in my view. You were here today to give us your presentation on how you feel about the bill, but there is going to be a great polarization, and that's a problem we need to deal with.

The Chair: Thank you, Ms Churley. Thank you both for your presentation today.

Interjections.

The Chair: Order, please. Boy, if I only had a voice.

ONTARIO ASSOCIATION OF CHIEF PLANNING OFFICIALS

The Chair: For the edification of members, we've had a cancellation of the group scheduled at 3:30, Wildlands League. I'm told it's not the first time they've cancelled. Unfortunately, the East York Tenants' Alliance, scheduled for 4:45, has also cancelled. That means the last group of the day is the Ontario Association of Chief Planning Officials.

Mr John Marshall: Thank you, Mr Chairman. My name is John Marshall. I'm commissioner of planning and building for the city of Brampton and I'm the chair of the Ontario Association of Chief Planning Officials.

I'd like to structure my presentation by first of all introducing you to OACPO, who we are and what we're all about. I'd like to talk about what the objectives of municipalities and planning practitioners are in this province with regard to this reform as it relates to large municipalities.

To highlight our response, I thought an interesting slant to take on it would be to look at this process as if the private sector were to look at it in terms of process re-engineering. I think you're all familiar with the fact that it's had a tremendous impact on private industry and government. I applied the criteria of that to this process, and I'll give you a very brief rundown of that. Last, I'll answer questions.

First of all, OACPO is comprised of the planning commissioners and directors of local municipalities having a population greater than 50,000 in the province. We meet quarterly to discuss matters of common interest, to communicate with provincial officials on current issues and prepare positions such as this one on Bill 20. We have representation on the AMO planning task force and numerous provincial technical committees and committees of the Ontario Professional Planners Institute. We sit on a number of these groups and take part in all their deliberations.

As the planning practitioners who lead and manage the planning and development approvals process in the large urban centres, we feel we are key stakeholders in this whole planning system and have a keen interest in the reform of the Planning Act and provincial policy statements. We're the people who are going to have to make this work on a day-to-day basis.

The association has participated in the process of formulating and reviewing Bill 20 and the Provincial Policy Statement with provincial officials, with the AMO task force, and also involved with the development and building industry. There was also a long amount of deliberations and consultations related to the Sewell commission, and I think everybody knows where everybody stands. I think the last few months dealing with the provincial process and with AMO has brought the key players together; it's been an excellent process. There have been frank and spirited discussions and the sparks have flown. We know where everybody stands. In the final analysis, you have a very strong and clear indication from a large number of groups that provides a basis for making a decision on this bill.

Last October, the association made a written submission to Minister Al Leach setting out what we thought should happen with the bill, and many of those recommendations have come to pass.

Next, I'd just like to talk about the objectives of municipalities in terms of the whole reform area. First of all, we'd like to be empowered and trusted to carry out the planning process in an efficient and responsible manner, with minimal interference by the province and the upper-tier municipalities.

Second, since we're held accountable for planning decisions by the residents—they look to city hall—therefore, we should have control of the process.

Third, we feel the local official plan should mean something. It shouldn't be lost in a morass of policy documents, provincial and regional. It should be what people should go to to find out how planning should occur in a municipality.

We should have the ability to deal with the substance of planning in response to local circumstances. With the existing policy statements and 600 pages of guidelines, we're reduced to paper shufflers, to a large extent.

We think the minister should have the ability to deal with different planning systems across the province, and certainly that's happened with the order exemption process.

Last, I think everybody wants a simpler process. Less is more; addition by subtraction. It's a very complicated process in this province, and it really needs an overhaul and much simplification.

The association feels that the amendments to the Planning Act and also—though it's not before you—the new Provincial Policy Statement go a long way to achieving these objectives.

I'm glad I followed Mr Hopcroft, because basically we're here to say that we strongly support the AMO response to Bill 20 and commend it to you. There are, however, some specific points we'd like to emphasize. I'll set them out as follows:

First of all, deeming official plans and official plan amendments. We feel that Bill 20 should be amended by providing that official plans and amendments thereto, once approved and in effect, are deemed to have regard for the provincial policy statement. That means the official plan is the one document that people go to to evaluate development applications or to guide the planning in a municipality, not a morass of documents. Implementation actions such as plans of subdivision and rezonings would then be evaluated on this. You don't have to go back to the provincial policies or be ambushed by somebody pulling some policy out of the bottom drawer.

I think the worst example I've ever seen of this morass of documents is in the town of Caledon where at one point they had seven major policy documents they had to refer to, either approved or under preparation. That doesn't lead to any simplification or clarification of the planning process.

The next point I'd like to emphasize are community-based approvals, the order exemption approach. OACPO strongly supports the proposed amendments to the Planning Act that enable the approving authority to exempt some types of plans and amendments from the approvals process. I think it enables the minister and the upper-tier municipalities to withdraw from the approvals process and place decision-making at the local level where it's most accessible and accountable to the public.

We feel that if these powers are broadly exercised, the planning process in the province will be significantly streamlined. If there are groups that have a problem with municipal decisions, they can refer them to the municipal board and then they can have it out with the municipality, rather than the municipality having to wait, oftentimes for a very long time, for provincial officials to review their official plan amendments and then finally make a decision one way or the other to refer them. We would like to get to the board quickly if somebody has a problem with the way we do planning.

I'd next like to talk about process time frames in complete application. The existing time frames related to planning decisions on official plans and amendments thereto, plans of subdivision, zoning bylaws and consents, we feel are more realistic than those proposed under Bill 20 and should be retained.

I think there's the feeling: "Let's put a little bit more tension in the system. Let's bring these time frames in a little bit." I know in one discussion we had with UDI and the Home Builders' Association, one prominent developer-builder said, "If you can get any application through your municipality in six months, I'll be ecstatic." So I think that the existing time frames really recognize that six months is quick in terms of the kinds of workloads that a lot of municipalities have and the complications of the process.

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We also remain concerned that the time frames are triggered by a complete application which contains only basic property information, the tombstone information; that's the buzzword these days.

I think to be fair to municipalities, the province should amend the Planning Act to provide that municipalities

may adopt bylaws to set out what prescribed basic land use and related information is needed to make an informed decision, and this must accompany a complete application. These bylaws can be appealed. If somebody thinks a municipality's being unreasonable, they can refer it to the board.

The act should also be amended to enable the Ontario Municipal Board to dismiss an appeal where the prescribed information set out in the bylaw has not been submitted as part of the application; and also to prevent the municipal board from conducting a hearing *de novo* that considers information that was not available to council. That is, somebody who just comes in, thumbs his nose at the municipality and wants to go to the board really quickly can't then show up with all his studies that council hasn't had a chance to evaluate and have the advantage of having an OMB hearing. That should not be allowed.

As far as minor variances are concerned, there was not a strong consensus in our group. I think some of the concerns that were raised—first of all, there should be a right of appeal; even at the local level it should be retained for committee of adjustment approvals just to have their decision be final. I've seen enough instances where the committee pushes the envelope out a little bit in terms of conforming to the official plan, or whether a variance is minor, therefore that option is not one that I would support, certainly, personally.

The provisions should enable municipalities to recover the cost of a hearing conducted by the board. I see there are two streams now. The committee has the final decision if they have a member of council on it or where you take the risk of taking this other long avenue and then being stuck with the costs of an OMB hearing. Certainly it pushes you towards the direction of a committee that has the final approval.

There should be the option of delegating the approval of certain types of routine variances to a municipal official where there are criteria in the official plan and there are no objections. This was covered by Mr Hopcroft and Mr Cousins.

I think if the official plan sets out those circumstances where a minor variance could be entertained, such as a shed in a backyard with, say, a minimum six-inch difference from the bylaw, those kinds of minor things can be handled administratively, and if there are some objections, then they can be handled by the committee of adjustment or council.

Lack of servicing capacity. We strongly oppose the amendment that will remove the ability of the OMB to dismiss an appeal on the basis of lack of servicing capacity. We think that's a critical power. Developers may want to just enhance the value of their land with certain approvals well ahead of time, and oftentimes what happens in my experience is that these plans end up getting redone and the municipality spends a lot of time going through the process twice.

Accessory apartments. With the exception of the city of Toronto planners, we strongly support the amendments related to restoring municipal authority to plan and zone for accessory apartments. One point that was raised by our members was, there should be a certain time frame or

a sunset clause on existing accessory apartments established under Bill 120 to declare they have come into conformity. That is, they can't 20 years from now if they get prosecuted, say, "Well, I was established 20 years ago." That's one thing we'd like you to consider.

Prescribed contents of the official plan. We very strongly endorse the amendment to delete the section that enabled the province to prescribe the contents of official plans. I think our worst fears were that here's a fill-in-the-blanks document for doing official plans, and certainly the possibility of that happening now has been removed.

Some issues that were not mentioned by AMO were raised by some of our members. This may have got in the final AMO presentation. First of all, we're concerned about subsection 17(7) in the act that makes preparation of upper-tier official plans mandatory and the preparation of local official plans permissive, the "must" versus the "may." We think this denigrates strong local land use planning that has existed in this province for a long time and is required really to effectively guide development. So we recommend strongly that subsection 17(7) be amended to make the preparation of both local and regional official plans mandatory.

I know you heard earlier in this week from the city of Mississauga about the disparity of the valuation of cash in lieu payments for parkland between site plans and subdivisions, so I won't go over that. There is some ambiguity there that should be cleared up.

Secondly, the act doesn't permit accommodation of land dedication and cash in lieu of parkland. The planning commissioner from North York raised a concern about their desire to have the act amended to permit zoning on a site to revert to a holding bylaw if the development does not proceed to be constructed during a specified period of time. This is a situation where there's a limited amount of sewer capacity, for example, in an area and the first person in gets their approvals and then just sits on them and prevents some other development going. There should be some kind of sunset clause or "use or lose it" kinds of provisions that would kick that back into a holding bylaw and give someone else a shot at the capacity.

The last point I'd like to talk about—there aren't any provisions in the act right now for the conveyance of lands for stormwater management facilities as a condition of site plan and plan of subdivision approval. As you know, subwatershed planning is widespread in the province and the results, often, are stormwater detention ponds, and the power has to be there for municipalities to require these to be in the public ownership.

I'd like to finish off with just running down what are deemed to be the characteristics of a successfully re-engineered process and just see how that compares to what's being proposed by the province. This comes out of the book, *Reengineering the Corporation*, by Hammer and Champy, which is sort of the bible of re-engineering. I'll go through it quickly; I won't keep you.

The first characteristic is, several jobs are combined into one. Certainly, I think that's happening with this particularly at the subdivision level, where subdivision approvals can occur at the local level, and the order of

exemption of official plans certainly allows that activity to occur at the local level without having to be split between the local, the upper tier and the province.

Second, workers make decisions. The work and planning is done at the local level and that's where the decisions should be made.

Thirdly, the steps in the process are performed in a natural order. If planners can't get that right, we're in trouble.

Fourth, processes have multiple versions. I think the act provides for a lot of flexibility. The order exemption approach says the minister or the upper tier can look at a particular circumstance and then decide whether that area should be exempted from upper-tier approval.

Fifth, work is performed where it makes the most sense, and I think that's at the local level. The whole development process gets played out at a local level. It involves people in a municipality and that's where the approval should occur.

Sixth, checks and controls are reduced and reconciliation is minimized. Certainly, this process moves in that direction where the upper tier and the province aren't armchair quarterbacks constantly reviewing local municipal decisions.

Seventh, a case manager provides a single point of contact. In this case, it should be the local municipality. If you want to find out about planning, you should go to the local municipality, and the official plan should set out the full spectrum of policies required once it's deemed to have conformed or "had regard to" the provincial policy statements.

Lastly, there are hybrid centralized-decentralized operations, and I think this fits in this system in that the province now will be responsible for broad policies and databases, the upper tiers more in terms of commenting powers. Dale Martin has this transfer-of-review project going on now where a lot of the provincial commenting powers will be going down to the upper-tier level and then the cities would basically carry out the planning process.

In summary, I think the Planning Act amendments and the new policy statement enable the process to be structured to meet our objectives and exhibit the characteristics of a successfully engineered process. We appreciate the opportunity to present our views to the committee. We're available to work with the provincial staff or through AMO to expand on our concerns and provide specific recommendations for amending or adding to the proposed amendments. Thank you very much.

1550

Ms Churley: Thank you very much for your presentation. You mentioned close to the beginning of your presentation that you enjoyed the consultation, that there were some sparks flying but you enjoyed it. Can you tell me about that consultation, who was involved in it, where it took place? I'm just curious as to how this draft document was arrived at. What was your part in it? Who was involved in it?

Mr Marshall: Being a representative of the chief planning officials, I was invited to a meeting including provincial staff, a representative of UDI, the home builders, AMO. I'm not sure if there were other people

there, but it was mainly professional people involved in the planning and development process. Also, we participated with AMO. They have a planning task force that involves planners from across the province. Representatives of municipalities, members of council, are on that task force. So we had the consultation in that regard also.

Mr Churley: You had input, then, into drafting this—not in the drafting itself but into the final result of this draft bill. Some of your suggestions were incorporated? Are you pleased with that?

Mr Marshall: They were. I would say yes.

Ms Churley: So you can see a reflection of some of your concerns within this draft document.

Mr Marshall: Yes, that's right.

Ms Churley: Do you see a reflection of AMO's concerns reflected here?

Mr Marshall: Yes, I do.

Mr Hardeman: Just a couple of quick questions. You made reference to the requirement of a mandatory upper-tier official plan but a discretionary power as to whether you have a lower-tier plan. I guess, coming from the rural part of Ontario, there are many; in fact, the majority of rural Ontario only has one plan. I guess from the government's perspective it would seem somewhat overkill to all of a sudden request all those municipalities to come up with a lower-tier official plan, so I think that's why it's not mandatory. It may be required in the urban centres but not in rural Ontario.

Mr Marshall: My comment to that would be that one size does not fit all. Perhaps the government could, where there are regions, look at either population size or perhaps separated cities, separating those out as maybe in a different category. I know it's difficult with so many municipalities to draw the anywhere.

Mr Hardeman: The other question, if I could quickly, is the issue of the OMB not being able to throw out an application because of its prematurity. The development industry has come in and told us that in many cases that's the issue they would like before the board so the board could decide whether it was a legitimate premature application. The water and sewer may not be available at the present time, but that could be accommodated and dealt with and that should be the issue before the board. They want to be able to go to the board with that. How would you recommend that we reconcile those two differences?

Mr Marshall: I just think the board should be able to just dismiss a thing out of hand on the basis of prematurity. I've never been involved in a hearing where that's been an issue. Whether it's just by motion that that's done—I'm not sure exactly the legal technicalities of how it would be done. I guess I'd just have to leave that to you. I know the municipalities would like the board to be able to dismiss it before the hearing starts on the basis of that prematurity.

Mr Hardeman: The development industry tells us that the reason you've never been to a hearing where that was the issue is because if that's the issue, it never gets to the board. That's what they wanted, the clarity that if this was one of their concerns or one of the concerns expressed by the municipality, that was sufficient reason to appear before the board and debate the issue.

Mr Marshall: If I were in their shoes, I'd probably want that flexibility, if there was some intransigent municipality which had what they thought was a flimsy reason for holding them up on the basis of lack of capacity. But certainly it puts the municipality at a disadvantage in clear cases where somebody just wants to leapfrog out there and get some status for their land.

Mr Hardeman: The other issue you mentioned was the issue of deeming the official plan to comply with the provincial policy statements as opposed to having to refer to the policy statements on subsequent applications. Do you not see a problem with the issue? Once a plan has been approved and the provincial policy statements could be changed, at what point would the public be aware that the plan no longer was deemed to comply?

Mr Marshall: That's an interesting point. Being fairly familiar with the policy statement, I don't think there's any provision that requires municipal plans then to come back into conformity. That's a situation I haven't really thought of. I think I would rather, if a policy statement's going to come into place, that there be some sunset in terms of requiring municipal plans to come into conformity within a certain time period than using that as the only pretext for keeping policy statements out there parallel to official plans and then you go to, say, a municipal board hearing and somebody is trotting out all these words that you've presumably already "had regard for" or "been consistent with." That's something I haven't thought of and I'd like to give more thought to.

Mr Conway: I just have a general question, and your brief is quite good and thorough. My experience over the years, and I have no personal experience as a planner but I've watched over two decades a number of planning issues—it's always struck me that the real fight's about who pays. In many cases the really interesting fight below the water line is who pays; irrespective of what the legislative framework is, who pays.

Mr Marshall: Who pays for what?

Mr Conway: Before you got here, I was asking some people from the regional municipality of Ottawa-Carleton—we have this fabulous new thing called the Palladium. I drive by it all the time and I keep thinking, I wonder what will happen if there's no hockey franchise here? I'm sure this has been well canvassed, and I'm sure what happened in Winnipeg and Quebec is about to happen to Cleveland and Houston and Seattle; it'll never happen in Bytown. But if it did, I wonder what we would be looking at in terms of some planning questions.

One of the realities that I've noticed over the last 20 years is that Her Majesty in right of the government of Ontario has had a deep pocket. If the taxpayers only knew what Her Majesty got to underwrite, they would I think be really impressed. We are in a new fiscal environment; I think everybody understands that, and Her Majesty, for a variety of reasons, is in a much more straitened financial circumstance. So there will not be the ability for Her Majesty, in right of provincial, national or local government, to be the kind of unsatisfied judgement fund that she has been for lo, these many years.

My question is, do you have any sense that the planning community and the community at large have really begun to understand what this is going to mean?

Mr Marshall: Yes, I do, Mr Conway.

Mr Conway: That's very encouraging, actually. I'm very pleased to hear that.

Mr Marshall: Yes. Clearly, the message in municipalities is, "Forget about provincial grants over the long term; they're not coming down." What we've done, and I can just speak for Brampton, is that for every development application that comes into Brampton, whether it be residential, commercial or industrial, we have an impact statement in terms of what it means in terms of annual revenue to the municipality. Secondly, in the region of Peel and the city, we do a cost-of-development study where we forecast all the costs of development and look at what the impact will be on the tax rate, long-term, versus the rate of inflation, those kind of things. So it gives you an idea. It isn't just sort of broad-brush, paint the colours.

Mr Conway: Just a final quick supplementary on that. It's your impression that people are increasingly aware that should, God forbid, anybody make a mistake, a big, costly mistake, the old days where Her Majesty came in to underwrite the bailout may not in fact be there for the next round.

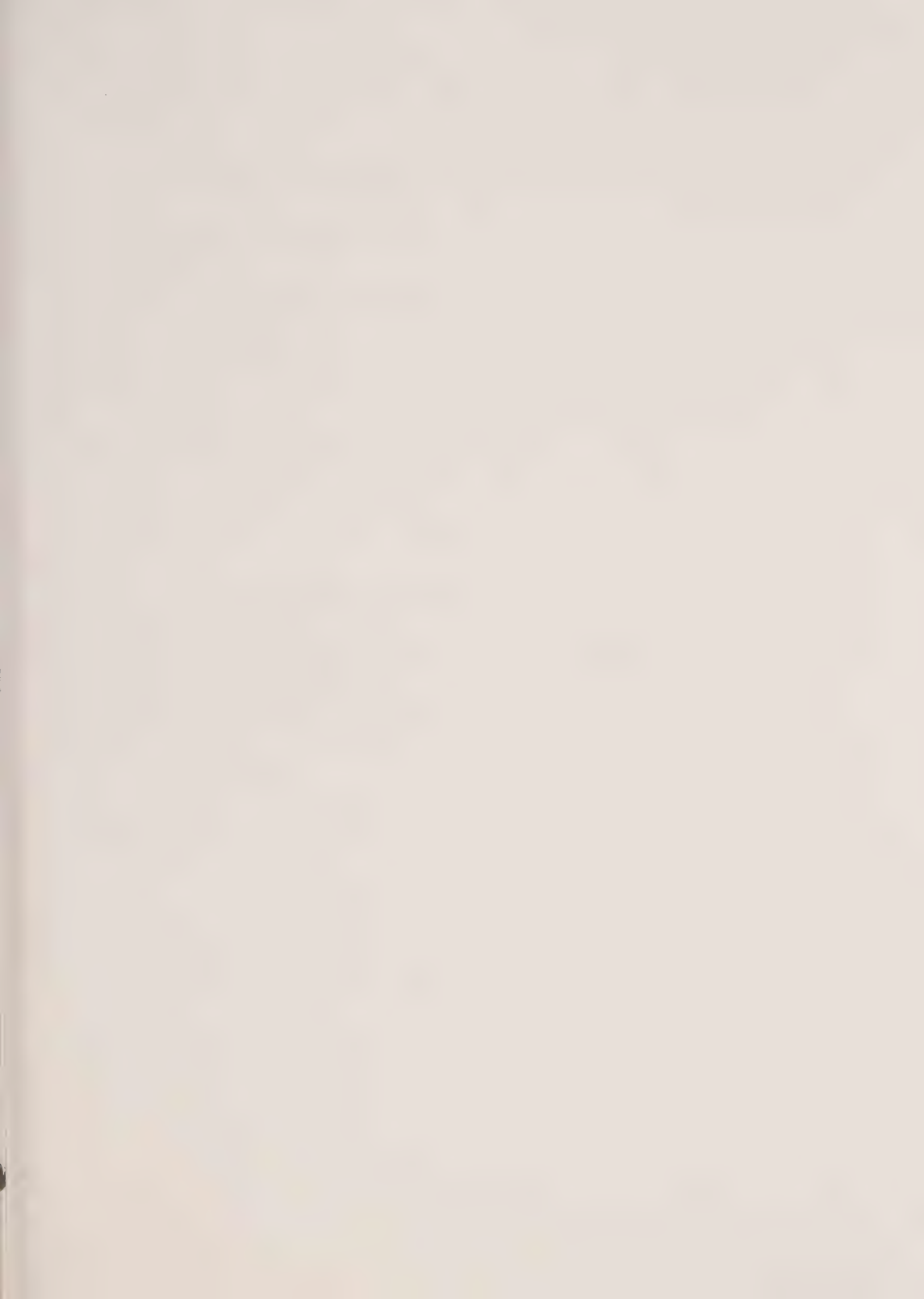
Mr Marshall: The message is there loud and clear. I think it's a preoccupation of planners now to look at the fiscal impact of what they're doing.

Mr Conway: That's good.

The Chair: Thank you, Mr Marshall. We appreciate your taking the time to make a presentation.

That having been the last agenda item today, this committee stands adjourned until Monday morning, 9 o'clock, in this room.

The committee adjourned at 1600.



STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Chair / Président: Gilchrist, Steve (Scarborough East / -Est PC)

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*Ouellette, Jerry J. (Oshawa PC)

Tascona, Joseph (Simcoe Centre / -Centre PC)

**In attendance / présents*

Substitutions present / Membres remplaçants présents:

Conway, Sean (Renfrew North / -Nord L) for Mr Lalonde

Galt, Doug (Northumberland PC) for Mr Tascona

Gerretsen, John (Kingston and The Islands / Kingston et Les Îles L) for Mr Duncan

Hampton, Howard (Rainy River ND) for Mr Christopherson

Hardeman, Ernie (Oxford PC) for Mr Carroll

Pettit, Trevor (Hamilton Mountain PC) for Mr Maves

Smith, Bruce (Middlesex PC) for Mr Chudleigh

Clerk / Greffier: Arnott, Douglas

Staff / Personnel: Murray, Paul, research officer, Legislative Research Service

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ISSN 1180-4378

Legislative Assembly of Ontario

First Session, 36th Parliament

Assemblée législative de l'Ontario

Première session, 36^e législature

Official Report of Debates (Hansard)

Monday 19 February 1996

Journal des débats (Hansard)

Lundi 19 février 1996

**Standing committee on
resources development**

**Comité permanent du
développement des ressources**

**Land Use Planning
and Protection Act, 1995**

**Loi de 1995 sur la protection
et l'aménagement du territoire**

Chair: Steve Gilchrist
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
RESOURCES DEVELOPMENT

Monday 19 February 1996

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DU
DÉVELOPPEMENT DES RESSOURCES

Lundi 19 février 1996

*The committee met at 0901 in committee room 2.*LAND USE PLANNING
AND PROTECTION ACT, 1995
LOI DE 1995 SUR LA PROTECTION
ET L'AMÉNAGEMENT DU TERRITOIRE

Consideration of Bill 20, An Act to promote economic growth and protect the environment by streamlining the land use planning and development system through amendments related to planning, development, municipal and heritage matters / *Projet de loi 20, Loi visant à promouvoir la croissance économique et à protéger l'environnement en rationalisant le système d'aménagement et de mise en valeur du territoire au moyen de modifications touchant des questions relatives à l'aménagement, la mise en valeur, les municipalités et le patrimoine.*

The Chair (Mr Steve Gilchrist): Good morning, all. Seeing a quorum present, I call the committee back to order.

CANADIAN PROPERTY TAX ASSOCIATION
URBAN DEVELOPMENT INSTITUTE

The Chair: Our first presentation this morning is from Yvonne Hamlin, partner, Goodman and Carr, on behalf of the Canadian Property Tax Association and the Urban Development Institute. Good morning. We have 25 minutes available, as you see fit, for presentation and a question-and-answer period.

Ms Yvonne Hamlin: Good morning, Mr Chairman and members of the committee. With me here this morning is David Fleet who is the vice-president of education of the Canadian Property Tax Association. He's also a lawyer at the firm of Poole, Milligan in Toronto. Beside me here is Mr Stephen Kaiser who is the president of the Urban Development Institute. I'm a member of both these organizations and will do the presentation largely this morning and then David will also add some comments afterwards.

As the brief indicates, we're here this morning on behalf of two organizations. One is the Canadian Property Tax Association. It's a national organization. It's been around since 1967. One of its objectives is to study proposed legislation affecting assessment and taxation in the province of Ontario, present briefs, and provide forums for information exchanges.

Many of you are familiar with the Urban Development Institute also, which is also a national organization serving as a forum for the exchange of information and ideas on matters relating to land use planning and development.

We're here this morning to seek the assistance of the committee in bringing forward an amendment to the Assessment Act. As you know, Bill 20 already contains one amendment to the Assessment Act. We're asking another one be considered by you. The purpose of it is to allow a retention of how farm land assessment has been treated over the past four decades in the province of Ontario. Farm lands have always been assessed having regard to whether they are an actual farm use or not. Zoning or official plan designation on those lands has never been something that's been taken into account either by the provincial assessors or the Ontario Municipal Board, or the courts in their review of those decisions.

Certain aggressive municipalities—and I don't think there'll be any secret in saying Mississauga is the leader in this regard—have taken a small loophole that was created by a case arising out of Windsor a few years ago and are trying to drive a wedge in how assessment of farm lands is being treated, and in fact are taking the position, both through the courts and in terms of how lands are assessed in their municipality, that if lands have a designation or a zoning on them that permits urban uses, they should not have the benefit of a farm assessment on them.

We're here this morning to ask that the loophole be closed, to allow people, and municipalities in fact, who have planned their affairs over the past 40 years to be able to continue to do so.

The regulations affecting how assessment of farm lands should be treated have been in the Assessment Act for 40 years, as I mentioned. They came in in 1955. They have been amended over the years to reinforce them and make them even stronger.

There are a lot of provincial policies that speak to this issue. I'm not going to go into them in great detail with you—they're set out in our brief between pages 15 and 20—but suffice it to say—and I know you're all familiar with them—things like: keep lands in agricultural production for as long as possible; have a long-term supply of land available until it's needed for development; look for a 20-year planning horizon. There are lots of policies relating to agricultural and food land guidelines. There are the draft proposed policy statements that go with the new Planning Act that's before you. All of these speak to a long-term supply of land.

The impact of allowing the situation to change and allowing, I'll say, the Mississauga approach to take over is significant. We had the company of Clayton Research do an analysis of what the economic impact would be, and it's set out at tab A of this brief. The kinds of things they looked at were, firstly, what was the impact on the

farming community. They looked at it in terms of—right now there's an incentive for the development community or those holding lands for future development, and sometimes, I have to say, they're just large companies that buy extra lands because they want to maybe expand their business in the future. It's not all land developers, although primarily they're the holders of land in the province.

Because of the incentive, taxwise, to keep the lands in agricultural production, they do so. Clayton looks at the fact that if there's no incentive to do so, then largely, why would there be any farming taking place on these lands?

At page 2 of their brief, they have a look at what the significance in the greater Toronto area is of farming. I was quite surprised when I looked at this, and I'm sure you will be. They looked at the 1991 census of agriculture, and in these regions that surround Metro-Durham, York, Peel and Halton—in 1991 there were 4,700 farms, half a million acres of land in crop production, 204,000 weeks of work per year for hired labourers. They mention also that 43% of the land that's farmed in the greater Toronto area is rented. I think this is going to show that there are a lot of farmers who are working hand in hand with people who are holding land for future use to allow this farming to continue for as long as possible until the lands are needed for another use.

The Ontario Federation of Agriculture—we spoke to them. They in fact have been quite active on this issue and approached us some time ago on it. There's a letter before you this morning which says they're in support of an amendment to this section of the Assessment Act that's at issue, which is subsection 19(3). They say, "Farmers are of the view that farm land is farm land, regardless of the zoning designation." They go on to explain how it's important to them that this problem be fixed as soon as possible.

Also, the municipality of Caledon, which is as you know north and west of this downtown area, were worried about this issue last spring and summer. At your convenience, you might have a look at tab C, the second page of that extract. They actually passed a resolution last July indicating that because they have a strong agricultural community and they're worried about the agricultural community's viability, they supported, "That the Ministry of Revenue be advised that...when lands are being used for bona fide farming operation that the Assessment Act be clarified to ensure that the existing provisions, which benefit lands used for farming, are maintained." So that was out of Caledon.

Another impact of course is, what about these lands that are being held and what's the impact on the supply and the cost of them? Clayton also looks at that. If you flip over to their page 3, you can see they've done an example of an 80-acre industrial park. As you may know, what often happens is a land owner will buy some land that is being farmed. He'll do his zoning and official plan designation to get, let's say, an industrial zoning on it. He might even stop the farming activity, put in some underground services. There's no market, because sometimes you have to wait a long time for a build-out of an industrial park, so he starts farming it again. Taxes are low. It works.

What Clayton shows is that over a five-year period, if you take into account the additional taxes and interest that would come from having these lands assessed as urban industrial lands, it would add another \$1.4 million to the cost of that land. That's an additional tax amount that would have to be paid.

Brampton is very concerned about this. When you have time, you might have a look at tab B of this brief, because you'll see in there a resolution from council of the city of Brampton that was passed last December, and a letter from the mayor, Peter Robertson, dated January 5, 1996, that he sends to the Minister of Finance and the Minister of Municipal Affairs, essentially saying that Brampton is worried about the economic development hindrance that this will have on the supply of land and the cost of land. They're worried, I think as many are, that developers and owners of land will not bring lands on for a long-term look and hold for supply purposes if, as soon as it's zoned or designated, they're going to be hit with high taxes. It will impact on making sure there's enough supply available so when people come up looking and they want to put an industry here or a business there, they usually like to have a large choice of lands of where they're going to put it. Brampton was very concerned that this was going to be impacted on, and their letter essentially is, "Please amend subsection 19(3) and assist us in that regard."

0910

Also, land developers who are bringing new communities on stream plan for the long term, as I've talked about, and even though there may not be a market at the beginning of the planning scenario for high-density housing or affordable housing in a particular area or a shopping centre and a school, these things sometimes develop over a 10- or 20-year time frame. The lands are planned up front, and the zoning is put in place. Everyone knows where everything's going to be to have a fully functioning community.

But the problems with this, of course, is no one's going to want to do that, and how we're going to plan over the long term to make sure all these uses are there. These are concerns we have.

When you look at the Clayton brief again, and I'll ask you to look at their page 3, if you look at the bottom there, figure 2, they took an example again out of Mississauga, an actual piece of land that's five acres in size, presently zoned for a high-density piece, parcel use, no market for it right now. Clearly, after the lands have been held for nine years, and an additional \$1 million of taxes that would be paid, it's going to impact obviously on the eventual sale price of those lands and whether in fact they'll be held. Likewise, you'll see in the figure to the immediate right of that what the impact will be on the cost of a school site. That obviously will be a cost to the public, over 10 years an additional \$158,000. They also look at what's the cumulative cost on a single-family lot, and this is on page 4, and show us that over 10 years, the increase in taxes would amount to about \$19,000.

What's happened in Mississauga, just so you understand what happened here, is for the 1995 tax year, Mississauga appealed every farm in their municipality. Hundreds of appeals were launched solely on the issue

of: "Are these lands zoned for farming or not?" If they're not zoned for farming, in their view they should be assessed and taxed at these higher land values. Those are still going through the system. They are four or five years away from being resolved. Mississauga also worked with the assessment department for their region, and for the 1996 tax year all the farms were reassessed at these higher land values and so now taxpayers are being asked to pay taxes, starting in January—last month—at these higher rates.

It's a critical problem right now. The land owners don't know what to do. The impacts are just so dramatic, and I guess this is what Clayton shows on the first page, the annual increase on that 80-acre parcel zoned for future industrial use, an extra \$232,000 a year in taxes. He shows some of these annual changes.

We're here then asking for you to consider to change the Assessment Act, subsection 19(3). It's the section that right now says lands that are actually farmed should be assessed as farms, regardless of who owns it or regardless of their speculative use. That test has stood the test of time, if I can put it that way, through the decades. There have been challenges over the years. The Ontario Municipal Board and the courts have been asked before, "Does zoning matter?" They have always said: "No, zoning doesn't matter. We're looking to see, are there crops planted, are the crops harvested, is someone fertilizing it?" These are the tests that have always been had regard to. Is it an actual farm or not?

This loophole that Mississauga has grabbed hold of, that zoning is the issue, flies in the face of 40 years of how this has been interpreted, how people have planned their affairs, and every provincial policy that speaks to long-term planning horizons and making sure there's an adequate and affordable supply of lands, whether it's for housing or industrial-commercial purposes.

David, did you want to add anything to that?

Mr David Fleet: Thanks very much, Yvonne. I am here on behalf of the Canadian Property Tax Association, which has as an organization for over 25 years been making submissions to this body's body in order to urge equitable and reasonable assessment policies. That's again why we're here today in support of the amendment, which would not create something new, but rather would allow the policies of the last 40 years to continue without the apple cart being turned upside down, so to speak.

It is perhaps, however, more succinctly put in the presentation of the Ontario Federation of Agriculture when they say, "Farmers are of the view that farm land is farm land regardless of zoning designation." That's the simple issue. I know, having met a young couple who do farming in the Oakville-Mississauga-Halton region, for instance, that they lease land from various owners, typically companies, and that's how they do their farming. If this litigation, reams and reams of litigation that's out there now, is not favourably resolved, that farming operation won't go on. It's as simple as that.

The position that the CPTA has consistently taken is that you ought to apply what I would call the normal assessment approach and that you ought not to be running off to figure out what the zoning is before you can figure out how you treat the land. That would not ordinarily be

the case in property of any other kind. Zoning may impact on a value in some other respects, but the policy consistently has been that farm land in farm use is to be encouraged and supported, and the amendment sought is simply to ensure that, so people and companies who have ordered their affairs for some decades can go on without the rules having been changed, and in the context of the use of land, in midstream in a sense, because they're stuck holding all this land and the tax treatment potentially is radically different.

The proposition here is that the amendment be made retroactive to 1993 to get rid of all that litigation. It's exactly the kind of impediment to sound farming and sound business that I would hope all three parties would join in endorsing the elimination of.

Subject to other comments from Mr Kaiser or Ms Hamlin, I'd be open to any questions from any member of the committee.

Mr Stephen Kaiser: Mr Chair, I'm Stephen Kaiser, president of the Urban Development Institute. I must say before I start that the strategy was to leave lots of time for questions and answers, and I see that strategy is not working too well.

Just in my quick closing comments, the strategy under this bill, Bill 20, and I believe the strategy under 163 and the previous Planning Act was to make sure there was an ample supply of land out there to keep prices affordable. I think that's the main thrust of the argument.

I think everyone is familiar with a community like Cornell, which is a properly planned, comprehensive community involving hundreds of acres. The industry, in light of this decision in the current problem we face, would not bring a piece of land on stream like that in the future, and that's the problem we're here to correct today. Thank you.

Mr Pat Hoy (Essex-Kent): Thank you and good morning. This issue has always been one of interest to me, and I'm pleased to see that the Ontario Federation of Agriculture has given an opinion here as well. That's very good.

The issue of what is actually the intent for this land in the future has been questioned for many years. I've driven through large tracts of land where it appears to be farmed, and then I'm told that none of these farmers owns the land; they rent it, and in some cases the developer is actually paying them to work it so that if they were to show it to a customer, rather than having weeds and brambles it has a nice-looking crop on it and a more pleasant view for resale.

I think the interest quite often, among some developers, is the property tax rebate and not so much whether they get a crop off it or whether the crop is particularly good. That relates back to the pleasant scenery they see when they try to build a mall out there or whatever it might be that they have some intention for.

The federation is also looking for changes in the property tax rebate. They would like to see some reform in that regard, and I'm sure you'll want to have some input into that as well if indeed the government does move in that direction.

You would be aware, though, that if a developer is to qualify for the property tax rebate, he has to have an

income off that farm of \$7,000 or \$8,000 a year. That's the kind of check and balance in there, that he actually appears to be a farmer. Of course, if you had 1,000 acres you wouldn't need much crop to come up with \$8,000 worth of income. But I find this a very interesting brief, and it would appear that the farm community is on side with you, that farm land is farm land as long as it's being cropped.

0920

Ms Hamlin: I haven't spoken to many people who have mentioned the farm tax rebate, but I think you have identified that this is an issue that really speaks to three different groups, in a sense: first, the developers. Sure, why not have lands that are well looked after as opposed to turning into a dump? If they're not farmed, people will use them as a dump or other unsavoury things, and it certainly keeps the community clean. Second, the farmers like it, because many of them draw their income from it and carry on viable operations. Finally, the provincial policies for long-term land use planning like to have the land zoned but in productive use. It's one of those issues that comes together and allows three different viewpoints to actually merge, which is an interesting one in this case, I think.

Ms Marilyn Churley (Riverdale): I apologize for being late. My concern overall, in the long run, is protecting our farm land, and I'm not quite sure how, and how long, land designated for other uses would be sitting as farm land. Does it really vary from time to time? Could it be a few years, 20 years? How does that work?

Mr Kaiser: I had a conversation the other day with John Latimer, who's the principal of Monarch, and they have a community called Millcroft in the Burlington area. The land was brought in under one master plan for 600 acres at one point in time. It probably covers a 20-year time frame in terms of the land being built out, and the servicing's there, but it was planned at one point in time. There's a 20-year time frame, and they're probably—I'm not sure—five or six years into it, maybe a little more, but the rest of the land is continuing to be farmed in corn, from what I saw the last time I drove by. So it is continuing as a viable farm.

Ms Churley: And it could be for a very long time.

Mr Kaiser: Yes.

Ms Churley: I see. So basically, you're not getting into a position on how municipalities determine what should or should not be designated farm land, but your position is very clear that as long as land is being farmed, every tool should be available to keep that land being farmed. I just want to be clear on that, and that what you're saying is that the high taxes are making it difficult, that once the land use is changed and the taxes are reassessed, it's difficult for the farmer to stay on that land and farm.

Ms Hamlin: Yes, that's exactly right.

Ms Churley: And they have to rent, essentially, to cover the cost?

Mr Kaiser: The argument's a little more than that, but it definitely encompasses exactly what you just said.

Mr Ernie Hardeman (Oxford): In terms of basing our taxation on market value assessment, if the property we're referring to were left as farm assessment, would it

be assessed as a farm outside of the metropolitan area, or would it be assessed based on the value as it was purchased by the developer?

Mr Fleet: It would likely be treated according to the assessor's perception of the market value, for whatever base year it was, zoned for something other than farming, ie, multi-residential-industrial, depending upon what that other zoning was. That other zoning may have no particular relevance to the current market value at all, partly because of the time frame from the base year of value—which in Mississauga, for instance, would be 1980—to the present. It may be different because of the simple market realities that whatever it was zoned for, whenever it was zoned, isn't what's going on in the market today. Third, there are still substantive portions of Ontario where there is not a great deal of development of any kind going on and the prospects are not very good.

In fact, the intervenors in the one court case are typically holders of land that was planned for industrial use of one kind or another. That market is gone for the foreseeable future, from my information, and however that land might get used, that zoning isn't terribly relevant, but that's likely how the assessor is going to go and value that property, at a value per acre dramatically different and higher from how it would be treated for farm purposes.

Mr Hardeman: You suggested that this be made retroactive to 1993. Would that be fair to those people who have used the present law to deal with the issues in their municipality, to say: "Guess what? We've passed a new law and everything you've done so far doesn't apply any more?"

Ms Hamlin: That's a good question. Why we said 1993 was that just canvassing around, solicitors who practice in this very narrow area, it seems the oldest appeals out there are from 1993, but the 1993 ones had nothing to do with the zoning issue. People do have legitimate disputes over: Is this really a farm? Did the farmer plant it at the right time? Did he have a bona fide crop? Did he harvest? These are factual issues. Sometimes you need the Ontario Municipal Board to decide. In 1994 it would be the same kind of issue. By the time you get into 1995, those are the appeals that Mississauga launched itself, pointing right squarely into the issue of zoning, and in 1996 they had the reassessment.

But if we don't clean up the issue back to 1993, what will be left is the argument being raised by the municipality for 1993 and 1994 that zoning does matter for those two years, but doesn't matter maybe for 1995 or 1996. We're just trying to clean it all up.

The Chair: Thank you, Ms Hamlin, Mr Kaiser and Mr Fleet, for making a presentation here today. We appreciate your taking the time.

FEDERATION OF ONTARIO NATURALISTS

The Chair: Our next presentation will be the Federation of Ontario Naturalists. Good morning. We have 25 minutes for you to divide between presentation and question-and-answer period as you see fit.

Mrs Marion Taylor: Thanks very much. We're pleased to be here and have the opportunity of speaking

to you. The Federation of Ontario Naturalists is over 60 years old and has worked with every government over that period for improved protection for forests, for parks, for wildlife, and also for improved protection within land use planning for our natural heritage features, so you understand we're coming at the Planning Act from that point of view.

Also, for those of you who don't know much about the organization, we have provided public education for a long period over that time through our award-winning magazine *Seasons*, our trips program and our education materials. We are also owners of the largest private nature reserve system in the province, nearly 2,000 acres of high-quality natural heritage land which has been acquired through membership donations. We have 67 clubs across the province, from Thunder Bay to Kirkland Lake and from Windsor to Ottawa.

I think, then, we can speak with some degree of confidence about the concerns of both small urban and rural areas that arise from some of the things in the Planning Act. We're also going to mention things which do not strictly come within Bill 20, but which I think affect Bill 20: other legislation, the policy statement etc.

What we're dealing with is quality-of-life issues here. I would wager that probably 95% of the people sitting here are fishermen, or fisherwomen. Probably that everyone here is concerned with potable water, with having a supply of that available, and also concerned with the visual aspects of the place in which you live. Those are concerns we are going to try to deal with.

0930

To start, then, in connection with Bill 20, I think one of the things that concerns us is that at a time when we're talking about cost saving, prudent fiscal management and so on, we are getting a total upheaval of the planning system, just after we thought things were settling down last June. That is being done, I think, without giving the present planning system the chance to operate. There will need to be changes—everybody accepted that—but we haven't had time to see where those need to occur. I think the main thing that we need to realize here is that many municipalities, large and efficient municipalities, have already incorporated a good part of the natural heritage policies into their official plans or are in the process of doing so.

I'm from a very small municipality in Holland township—I'm pleased to see the MPP sitting here on the committee—and I must say that I have an acquaintance on the council who has said that the clerk has said to her and to the council generally: "I was beginning to think that we had some grip on the rules here and how to deal with things in a rural municipality. Now I'm finding that just when I thought things were going to settle down, we're back with some pretty vague rules and I'm not sure how that's going to work out." Then he finished by saying, "I'm going to get those awful environmental people bothering me again and I don't like the thought of that."

The new policy statements stress cost-effectiveness and efficient development, and I think they do that at the expense of the natural environment. "Cost-effective" here seems to mean in the immediate time and place, not the total cost—environmental cost, if you like—of develop-

ment, and "efficient" seems not to consider the long-term effects of development. That long-term cost would have to factor in the degradation of the natural environment as a result of the ambiguous natural heritage policies, and that is not even considered.

We are concerned about the across-the-board dilution and weakening of the natural heritage section of the policy statement. It removes protection for about 50% of the area that was protected previously under the wetlands policy statement. It's no longer protected, and there really seems to be no reason for that. The area that is within the line in the policy statement is largely the area in which a lot of damage has been done. Looking at southwestern Ontario, the whole area of cottage country has been removed from protection. The 1992 wetlands policy statement acknowledged that "the Canadian Shield wetland loss is also becoming significant, especially near urban areas and along shorelines of the Great Lakes and other bodies of water." I think we all know the pressures in cottage country on shoreline development.

The other thing that is of concern for us is that corridors and shoreline protection have been removed from the policy statement. Again, anybody who's interested in fishing should be concerned about that removal, because not only has that happened but we have under the Public Lands Act no requirement for permits now when shoreline work is done. So you have a very limited proactive way of dealing with loss of fisheries habitat. The Fisheries Act deals with after-the-fact rehabilitation of fisheries habitat.

We're also concerned with the weak policy statements—I see that there are two representatives here from Grey and Bruce, and I think this is a real concern up there—on water quality and quantity, which fails to curtail or even modify development in headwaters, aquifer and recharge areas, or adequately protect groundwater resources. I know in Grey county water questions are the questions of the next decade certainly.

In the midst of the removal of any strong framework for environmental protection, we have everything being passed down to the municipalities. The municipalities are now going to have to be responsible for protection, and God help them. They have no provincial agencies. I know the provincial agencies were, frankly, a pain in the ass at times, and I'm not defending them, but there was a provincial check there.

We also have a serious weakening of the conservation authorities, probably the only local agency that had some resource base and some training in being able to comment on that resource base. Now they are bound to the municipalities; they are dependent on the municipalities for their levies. I can't see that any conservation authority is going to put itself in jeopardy by telling the municipality something it doesn't want to hear. So that's happened.

Then what is the backup? The backup has traditionally been the interested public, and that means all of us who want decent water, who want streams unpolluted and so on. What has Bill 20 done there? Bill 20, for whatever reason, has curtailed public access to the process. Municipalities have in fact been given all the power, and the communities which elect those municipal representatives

have a severely diminished say in their own future. This is something that should concern municipalities.

I know that AMO, the Association of Municipalities of Ontario, supposedly has had a large role in restructuring the Planning Act, but I really do wonder who AMO represents. Our municipality says that AMO doesn't represent them, that they prefer ROMA, the Rural Ontario Municipal Association, and I know that the mayor of Caledon has said AMO certainly doesn't represent her, so who does AMO represent? It might be a question worth asking, politically?

To go to the major headings here, I think the major thing that we're finding people are reacting to is the limitations on public access to the land use planning process. This is everywhere. People are confused, baffled by the fact that they were beginning to get on to a system that came into effect with Bill 163, and now everything's been turned over again and they really aren't sure what's happening. But what is happening is that public taxpayer access to the land use planning system is being severely limited.

Time frames, for instance, for public appeals to the OMB have been reduced from 30 days to 20 days. You've probably heard this a million times, so let us hope that all this seed is not falling on barren ground, because the public has to support this. In the governing process, you do make the assumption that there is going to be a large amount of public buy-in into what is being done, and my observation is that this is a real concern to ratepayers' groups, to naturalists' clubs, to the general public across this province. The reduction from 30 days to 20 days doesn't make any damn sense at all, given our postal system. You probably will get the notice about the time that the last opportunity is there to speak up. It's important, I think, to restore that. Thirty days seems reasonable.

Bill 20 deletes the requirements for public meetings at the municipal level in a variety of circumstances. One is on a proposed plan of subdivision. I think a proposed plan of subdivision, especially in rural areas, is a major decision. I don't think that should have been removed.

Also, municipal council decisions on minor variances—and again I know you've heard this time and time again—are not subject to appeal, except an internal self-appeal to the committee of adjustment. As minor variances are not defined and can cover a wide variety of things, I think that's important.

As far as land use planning process and natural heritage—and this may turn out to be a serpent that writhes in the hand of the person holding it—we have what's called the one-window approach. I'm damned if I can see through it. The Ministry of Municipal Affairs and Housing is going to be the one agency in charge. We've asked, how will this work? Nobody seems to know, which is kind of interesting at this stage. We don't know, for the ministries with expertise, for instance, in agriculture, in the natural heritage section or in the water section, how that expertise is going to be fed in, and at what stage. We have no idea. So I have a feeling that MMAH is going to find this not a one-window approach but a very hot-seat approach when things begin to fall into place.

0940

In this one-window approach, there are a lot of questions. We're agreeing that there needs to be avoidance of duplication, but there is apparently no consultation process about what form this will take, and there is no indication that the protocols which we've been assured will be developed will be subject to public review or will be placed in the regulations. So I think this is a matter of some concern.

I think MMAH would be the first to admit it's not a field ministry. What about defending farm land? I think that Ag and Food has done a pretty good job in defence of prime farm land, and I can't see how MMAH is going to do that without some kicking mechanism to get Ag and Food in there when it needs to be. The same is true of water issues, which are big ones.

Another major concern is the exemption in section 9 of the bill to section 17 of the current Planning Act. I'm going to read this because I think it's something that is really bothering us. From our reading of that section, the minister can exempt from his or her approval official plans and official plan amendments, and the minister can also authorize that an approval authority exempt from its approval lower-tier official plans and official plan amendments. That looks to us uncomfortably like self-approval of official plans, at a time when directions to lower-tier municipalities are not very clear, when we're removing from them the financial support that has been theirs from the provincial government and also the technical support. That is truly frightening.

I think that was one of the things that we're finding from our club people and from the ratepayers' groups. They're saying: "We know a lot of these people who are elected as municipal officials. They're well meaning, but they do have certain prejudices and even certain commercial interests, which need some kind of check to them, and that's been removed." If this, in effect, is saying what we think it says, that scares the hell out of me, quite frankly.

Recommendations: In public access, public taxpayer access to the land use planning process must be improved in Bill 20 to garner public support for the streamlining process. This is only sensible. For instance, the time frame for public appeals to the OMB must be reasonable, and I think 30 days is a reasonable time. I don't think it's going to alter the course of history to have that back to 30 days.

Also, mandatory public meetings to address a proposed plan of subdivision and official plan amendments proposed by members of the public should be reinstated. You will often have, in our case, quite reasonable OP amendments introduced by members of the general public to rectify, for instance, a water issue or something of that kind, and if they can be dismissed by a council which is not sympathetic without any further recourse, I think that's a bad thing for the process.

Also, rights of appeal for minor variance should be reinstated. That one has been kicked around. I really do think that's important.

Appeals to the OMB: Now, I'm not a defender of the OMB process. I do think that one of the worst things Sewell did was not listen to people when they said,

"Look at the OMB, for God's sake, and reform it." That was not done, and maybe that's something this government should consider doing, because I do think there should be some means of solving things before they get to a full-blown OMB hearing. I would be willing to sit down with somebody and perhaps suggest some means of doing that.

But as it stands, if OMB is the last resort, if there are to be adequate checks and balances in this one-window approach, all ministries that have input in there, particularly ministries that have some prescriptive input, like MOE and MNR and Ag and Food, should have the right to appeal planning decisions to the OMB if all other avenues to reach agreement with MMAH have failed. I think that you have to build that in as a check and, as I say, particularly those three ministries.

The requirements for members of the public when appealing to the OMB are too stringent. We opposed the severity of the requirements during the consultation period for Bill 163 and we continue to do so. We accept the process as it applies to official plan adoption, as citizens have a longer period of time to get involved in the planning process. However, in the cases of plans of subdivision, official plan amendments and consents, we recommend that appeals by members of the public to the OMB be accepted if there has been any serious indication of prior interest in the matter.

In the exemption process, we recommend that the upper-tier municipalities not be allowed under any circumstances to exempt from approval their lower-tier official plans or official plan amendments. There should be a review process there.

In the natural heritage policy statement—and I know this technically does not fall within this hearing's jurisdiction, but I see no reason you shouldn't recommend something here—development should be prohibited in all provincially significant wetlands in the Great Lakes-St Lawrence region, as was the case in the 1992 wetlands policy statement, if for no other reason than it's going to give you a political nightmare. Have you ever thought of the expensive property and the amount of money that's invested in Georgian Bay real estate and the Muskokas, to name two areas? It's only sensible at least to cover that cottage country area with a policy statement.

Also, significant shorelines and natural corridors should be reinstated as areas of conservation concern in land use planning. Again, we're referring to the recreational values here. Anybody who hunts or fishes or who takes some enjoyment in the natural areas I think should support those as general protection measures.

Ms Churley: Welcome this morning. I think I have the answer to one of your questions, and that's the one-window approach. I would say that this is a terrible problem, because although we agree—all agree, I think—with streamlining and cutting red tape, given this government's dismantling of environmental protection to date—and I don't have time to go into it across the board, but it's just incredible, and very disturbing—I can tell you what the one-window approach means: it means that the Ministry of Environment and Natural Resources will not have a say in this process. Even if some window dressing, so to speak—the window you can't see through—is

installed, that is clearly what is happening now across the board. Therefore, I can't support that aspect. I want to see streamlining, but that's what it means.

What I think the problem is, and we hear it time and time again from groups like yours, is that when we look at this bill, and when developers and when AMO came, it's very clear that many, many, if not all, in some cases, of their concerns and issues have been addressed in this bill. They have been consulted with, and some I've asked have said, "Yes, what we wanted is reflected in the bill."

Have you been consulted? Were you consulted in the putting together of this new bill, and do you see any of your very valid concerns represented in this bill?

Mrs Taylor: No, we weren't consulted, and no, as I've said, I don't see our concerns reflected here. And I think this is a matter of some concern, and I address this to the Progressive Conservative caucus: I think you're making a mistake in the closed-door policy which a lot of ministers are adopting to groups which have a valid concern in an issue and which have a long history of concern. We have not yet been able to meet with Mr Leach, and we have been trying since the summer.

Ms Churley: Shame, shame. Awful.

Mrs Taylor: Much as I like Jim Murphy, he is not a substitute for the minister.

Mr Bill Murdoch (Grey-Owen Sound): Thanks for giving me a question. Thanks, Marion, for coming down. I appreciate your input. I know we'll be able to use this in the consultation and clause-by-clause. I'm certain we'll look at some of the aspects.

0950

One thing I wanted to say, though, is that ROMA is part of AMO. We mustn't forget that, that they do form part of AMO. I know in our area our rural municipalities all belong to ROMA but they do go and participate on AMO. Gerry Short, who's reeve of St Vincent township, is just past-president of ROMA. He sits on an AMO board, so he does get the input in there. So we do have that input, and I know AMO likes pretty well everything—

Mrs Taylor: Were they satisfied with the input they had?

Mr John Gerretsen (Kingston and The Islands): Oh, they got everything they wanted.

Mrs Taylor: ROMA?

Mr Murdoch: No, no. You guys, see, if you'd just wait and listen, she's talking about whether ROMA is satisfied. They like to jump on the government and they like to make things up. But that's fine; that's their job.

Yes, as far as I know. There are some changes they want too. Everybody has changes they'd like to have. Again, this is why we're here today for consultation and this is why you've brought your brief to us, and I think this is fine. It's disturbing to hear that you haven't been able to get in to see Mr Leach, and I'm sure if you get hold of some of us, we'll certainly see that you get that chance.

Mrs Taylor: Maybe we could address to Mr Hardeman a request that he set up a meeting for us.

Mr Murdoch: And I think Ernie heard that, but the thing you've got to remember it that June 8 was not that long ago. To get some things in order, there's not time,

and there will be time and I'm sure they will, because when we request some meetings, they will come, and I'm sure he will. It's just probably that there hasn't been that long of a time frame yet that we've been in government, and there has been Christmas and things like that over there. Anyway, I'm sure you will meet with him.

Mrs Taylor: You're stretching it there, Bill.

Mr Murdoch: No, no. I wouldn't do that. You know that, Marion. I just appreciate your bringing this to us, and I'm sure some of the things we can look at and maybe we can do some changes. The water quality: We have to address that, as you know. I think that maybe could be addressed under regulations once the bill's passed. So I think we will look into that once that's been done.

Mrs Taylor: I was telling Dr Galt about Arnold and his cannon. If Arnold is confused, you guys had better watch out, because that cannon has a two-mile range, and if we trek it down here to Queen's Park—

Mr Murdoch: I don't know what the Arnold and the cannon is.

Mrs Taylor: You haven't heard about Arnold building a cannon? They were doing the black powder exercises up just north of Participation Lodge Road there, and Arnold—you know, the clerk—

Mr Murdoch: Oh, okay. Arnold Rosenberg, yes.

Mrs Taylor: —has built a cannon. I understand it's a two-mile range. So we want to keep Arnold happy.

Mr Murdoch: Yes, that's right. I didn't know that. Anyway, again, thanks for bringing it to us.

Mr Gerretsen: First of all, let me thank you for your brief, because I couldn't have written it better myself and it's very nice to hear this on a Monday morning. I don't know you at all, and I used to be a president of AMO and a mayor and a developer and everything else, and I'll tell you, where the government has totally missed is that there are three major players involved in this, and that's the province, the municipalities and the general public. In the hopes of speeding things along, which is a laudable goal—I certainly agree in speeding things along—they somehow have shortchanged the general public out of the whole picture.

When I think that most of the delays that they place are purely of an administrative nature within our own planning staffs, city halls, provincial departments etc, and you could go on and on and on—and that's the whole problem with this bill. We're sort of Mickey Mousing around whether or not it should be a 20-day appeal or a 30-day appeal, when in actual fact the average development probably takes a year or two to process etc, etc.

I firmly believe that one of the things that has always made municipal government work, by and large, is the fact of public process, and that has been written out of it. We see more regulatory powers. We see it not only in this bill but also in Bill 26.

And the one-window-approach comment you made is right on. Unless we actually see the protocols that are involved between the various ministries and the Ministry of Municipal Affairs and Housing—it's great for people to say, "Okay, we can zero in on the Ministry of Municipal Affairs and those are the people we deal with," but if we don't know what goes on behind the scenes, it could very well be that a lot of ministries that may have very

legitimate concerns about a particular development etc are going to be finessed out of the situation.

I would like to just congratulate the Ontario naturalists for an excellent brief, because you've probably said it a heck of a lot better than I ever could. The real problem is administratively. It doesn't take 90 days to get an average rezoning done in most municipalities; it takes like a year or nine months. When you add the appeal process on to that, I think people have a right to know where they stand, whether you're for or against it, pretty early on in the process. I just wonder what your comments are on that.

Mrs Taylor: I just want to say that as far as the one-window approach, at least we used to know when MNR wasn't doing its job. Now there is no way in, so you can't know that.

But I do think that's one of the things that is probably going to come back to haunt you politically, cutting out the public from the process. I think you need to think seriously about some of these things, because I'm not sure for whom this is being done, but it sure as hell isn't for the public of Ontario.

Mr Gerretsen: And there shouldn't be any confusion as well that AMO's position, or the municipal position, is not always along the same lines as the general public's position on these things.

The Chair: Thank you both for taking the time to make a presentation here today. We appreciate it.

CONCERNED CITIZENS FOR CIVIC AFFAIRS IN NORTH YORK

The Chair: Our next presentation will be Concerned Citizens for Civic Affairs in North York. Good morning.

Mr Colin Williams: Thank you, Mr Chair. My name is Colin Williams. I'm the president of the Concerned Citizens for Civic Affairs in North York. On my left is Mr Tim Pellet, who is a director of our organization.

The organization is a civic group in the city of North York. It has about 70 members and four associations that are associate members of the organization. Our interest over the years has primarily been in the quality of municipal administration and in particular in planning.

I'd like to thank the committee for the invitation to appear today. We got word of this at about noon on Friday, so it's been a very short time to pull together a deputation, and we have no brief for you.

We made a submission to the standing committee on justice with respect to Bill 163 on September 19, 1994, and this is fully reported starting on page 1923 of Hansard. We pointed out some weaknesses, as we saw them, in that bill, in particular the proposal to eliminate variance appeals to the municipal board and the failure to effectively address the accessory apartment problem. We feel that Bill 20 deals better with the accessory apartment problem but needs some clarification. We like the registration idea.

Other concerns are: the elimination of the official plan definition—it's our feeling that this tends to weaken a basic document in the planning process; the weakening of the development charges regime; the failure of the bill to strengthen protection of Canadian heritage structures; and

the failure of the bill to address open government, the unfinished business of the last administration.

I'd like now to turn over to Mr Pellew, who will talk specifically on the variance appeals.

Mr Tim Pellew: Section 45 of this bill eliminates the right of appeal to the OMB on minor variances. In the case where the application for the minor variance is heard by council or a committee of adjustment on which one or more members of council serve, then their decision is final and there will be no appeal process. In instances where there are no members of council on the committee of adjustment, an appeal process to council is allowed, but again, there is no provision for appeal to the OMB. Council, however, will have the option of having the appeal heard by the OMB, but the grieving party does not. We are very disappointed by this change.

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To start with, there's difficulty in defining a minor variance. Some are zoning changes in disguise. Many would certainly not be minor matters to the neighbours. Would you call putting up a monster house on an under-sized lot next to you, completely dominating your house and backyard, a minor matter in your life?

I'll give you another example: In North York, a developer had succeeded in getting planning permission to put up a large condominium which the local residents had strongly opposed because of its height, size and closeness to their single-family residential neighbourhood. A month or two later, the development was applying to the committee of adjustment for a minor variance to approve increasing the number of suites by nearly 50%, although the outside dimensions of the building were little changed. But that's a pretty big sort of change to call a minor variance.

The individual doesn't expect always to get a fair decision at city hall. Developers finance the election costs of many members and expect favours in return. I don't have to go deeper into this because the saying that the individual cannot fight city hall is only too well known. We have little confidence that we'll get an impartial decision there. There's too much of politics involved: Developers will lobby the councillors. This sort of thing doesn't occur at the OMB.

Now I understand that the priority today is to get the economy to expand and create jobs and that the removal of obstacles will encourage builders and help in this respect. This is probably why section 45 is in Bill 20, to help with the streamlining. Let me answer this important concern this way: Based on our experience in North York, the great majority of the type of construction that is covered by minor variances conforms with the building bylaws of the municipality and building permits are issued without any hearings at all. It's only when the builder wants in some way to break the rules does it go to the committee of adjustment. Once again, the great majority of these are passed unopposed or passed without the opposition appealing. So what have we got left? The answer is, a very small amount of the total. I think that in most cases the builder is trying to put up a larger building than the rules allow. To get a larger building, he may be closer to the boundaries or taking up more area on the lot than he's allowed to, and this often results in

inefficient parking. So my point is that the obstruction is usually caused by the builder himself, because he wants to break the rules unnecessarily.

What this bill will do is disempower the people by taking away their right of appeal to an impartial body, the OMB. There will be absolutely nothing people will be able to do if they are faced with injustice, which is bound to happen from time to time. The wealthy may be able to get the matter into the law courts, but the average person would not be able to afford that.

I have a vision of what I'd like to see happen in Ontario: It is to be a place where truth and justice prevail everywhere. I plead with you to change Bill 20 in respect of this matter.

Mr Williams: Bill 163 came forward with a view to enhancing the role of municipalities in land use planning, streamlining the planning process and protecting the environment. We look at the cover of Bill 20 and we see a similar set of objectives here. I would guess that the same scriptwriters have been providing material. One difference is that it's very difficult to find one iota in Bill 20 that does anything to protect the environment. I trust that you'll give some consideration to protecting the environment.

In support of what Mr Pellew has just said to you, I'd like to read from a letter that was sent to the Minister of Municipal Affairs, March 14, 1994, by Michael B. Vaughan QC, of Fraser Beatty. He deals with committee of adjustment appeals. He says:

"I condemn the proposal to take away the right of appeal of committee of adjustment minor variance decisions to the OMB. The proposal is Maoist. The proposal is statist. The proposal is wrong.

"People care profoundly about their homes, their businesses and their rights to make alterations to their properties, or oppose what they fear might be damaging alterations by others.

"Committees of adjustment normally hear applications over a 10- to 20-minute period and do not permit the leading of evidence or cross-examination and so forth. A committee of adjustment hearing is not a hearing in the judicial sense.

"People therefore rely on the fair, impartial and full hearing that is available to them at the municipal board on appeal. They may not always agree with the result, but the objectivity, impartiality and fairness of the municipal board appeal is a fundamental right that is critically important to the parties involved and to the essential functioning of the system."

Dealing with some of the other matters: Our feeling is that the official plan is a basic planning document, that it provides some stability for municipalities. Zoning can be changed relatively easily, official plans not so easily. Our feeling is that the elimination of the definition of an official plan from this act is a step towards weakening the planning process.

Our concerns about the development charges, first of all, are with respect to the ministerial discretion, the lack of any guidelines as to how that discretion should be exercised. The elimination of soft services: It seems to us that these soft-service costs should not be carried by the municipality at large but should be considered as part of

the cost of erecting new housing, new commerce, new industry or whatever. Finally, for development charges, there is the elimination of the appeal to the municipal board. We feel that's a retrograde step. It's giving more ministerial authority, which we feel is unhealthy.

Our feeling is that the registration of accessory apartments is a good arrangement and basically we're supportive of the proposals in the bill in that area.

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We've mentioned the unfinished business from Bill 163. That dealt with open government. It disappoints us that this matter is not being addressed as part of this bill. I'd like to read to you a couple of items from the terms of reference for the Sewell commission, which was instructed "to inquire into, report upon and make recommendations on legislative change or other actions or both, needed to restore confidence in the integrity of the land use planning system, including the following matters: improvements to the integrity, efficiency, openness, accountability and goals of the land use planning and development review system." These are all important issues which we felt were not properly addressed by the Sewell commission and which the previous administration made a small step towards addressing.

In conclusion, I'd like to commend for your more careful thought the presentation that you've just heard from the naturalists. Our organization supports many of the things they've been laying before you.

Mrs Barbara Fisher (Bruce): Good morning. I've appreciated the presentation. I do have a question though. You referred to taking into consideration the last presentation as well as your thoughts. I wonder if you could explain to me specifically what it is in the environmental aspects that you feel is being eroded by this new bill.

Mr Williams: The failure, first of all, of there being anything in the bill which protects the environment. There's no positive move in this bill which enhances the protection of the environment in any way. The hearing process is being abbreviated. The policies which are coming along with this bill were put out in December, I believe, and there's three months for public response.

Mrs Fisher: Excuse me, but I'm looking for specifics. I'm sure you've seen the policy guidelines as well. Included in there are those protections that you're suggesting maybe aren't there. ANSIs are still there, wetlands are still there. I just wonder what isn't there that you're worried about.

Mr Williams: The protection of ravine land, for example, which is very important in an urban area like Toronto, is weakened in the policy statements that come along as part of the package with this.

Mrs Fisher: I'm not so sure I would agree with that. It's still there and so are the other areas that relate to the environment. The policy statements haven't weakened, in the new introduction, from where they were before. I think the process is altered, there's no question about that. I do believe there's the ability to have the public input that is necessary. These aren't things that just show up; they come through the planning process way before subdivision agreements in terms of official plan amendments and zoning bylaws. I just was curious to know specifically what it was. Thank you very much.

Mr Jean-Marc Lalonde (Prescott and Russell): Thank you for your presentation, Mr Williams and Mr Pellew. Looking through Bill 20, and in the past also, I really feel the definition of minor variance is vague at this point. It could be of anything I've had the experience of in the past, but the fact at the present time is that we have removed the appeal to the OMB. It is going to be left to the municipalities really. In a small, rural area, municipalities at times don't have the money to appeal to the municipal board, so it will be left, really, to the council. But at the present time, I feel that the minor variance committee or the committee of adjustment—its decision could be made but we should be able to have the right to appeal through the municipal council itself.

The way the act is written and read at the present time, if there's a member who sits on the adjustment committee, then you have no right to appeal to the council. I really feel that there should not be any member of municipal council who sits on a minor variance or adjustment committee. That should be taken out completely, that section. But anyway, the cost that will be incurred by the municipality at times could come up to a very high, expensive process to go through.

Do you feel that the section that allows the member of council to sit on the adjustment committee should be removed and it should be really an independent committee of which, in turn, you would have the appeal right to go to municipal council if there's no member sitting on both committees?

Mr Williams: Let me try to respond. I don't think the question you raise is really the central issue here. Let's see how in an urban area, like the area I live in, people get on to the council. They get on to the council because they have support largely from one particular industry. There are special interests who make contributions to the election campaigns of these various people.

You've probably heard of Councillor Mario Gentile. He came from the city of North York. So, first of all, the council comes along in this manner, and then they appoint a group of like-minded people, such as Patricia Starr who sat at one time on our committee of adjustment. Our feeling is there's a lack of objectivity here.

Now, you mentioned the high cost of municipal board hearings, and I would suggest that the hearing itself need not necessarily be a very costly process. Typically, variance hearings at the municipal board take up perhaps half a day or maybe a day. So you have the cost of the chairman, usually it's a single person who holds the hearing, and that's the cost of the hearing, typically.

Ms Churley: I appreciate your comments today. You've done an extremely good job, given that you only had since Friday to prepare. The minor variance issue is one that comes up time and time again. The only people I've heard at all who came in here on all sides of this issue I believe was AMO, which I believe, for reasons of their, own supports that. I expect and hope the government will be willing to make an amendment.

I want to come back to protection of the environment. Ms Fisher asked you, "What's in the bill that hurts the environment?" Obviously, you haven't had a chance to analyse and digest the whole bill, but I can assure you Ms Fisher must be reading a different bill. I'll give you a few examples of how the environment has been hurt.

Natural heritage, the policies have been totally gutted. I can't believe she's saying that the environment is not being hurt. Loss of no-means-no prohibition on development in natural heritage areas. There's a loss of the requirement for an environmental impact statement to determine the acceptability of development in lands adjacent to natural heritage features. There's no quality control over an evaluation that has to go on still.

I think one of the biggest losses is that the wetlands map has been changed. About 50% of protected wetlands has been changed so that most of eastern Ontario, where the highest percentage of dwindling wetland resources remain, is eliminated from where wetlands have to be protected.

There's the whole question around "have regard for" as opposed to "shall be consistent with." It means that municipalities can absolutely ignore broad policy objectives of the province to protect the environment. I could go on and on. The water quality and quantity has been totally gutted, and you'll be hearing more about that in clause-by-clause.

Environmentalists and the general public have not been consulted, have not been listened to on this bill, and it's becoming increasingly clear that people like you and other environmentalists and the general public have been left out. This is a bill for developers. There is no protection of the environment in here, and you've got it right.

Thank you very much for coming before us today. This is your chance for consultation, a bit late in the process, but hopefully in clause-by-clause some of your concerns will be put back into the bill.

The Chair: Thank you, gentlemen. We appreciate your taking the time to make a presentation before us today.

1020

CONSERVATION COUNCIL OF ONTARIO

The Chair: Our next presentation will be from the Conservation Council of Ontario. Good morning.

Mr Chris Winter: Thank you very much, Mr Gilchrist. It's a pleasure to see this is a feisty committee.

Mr Gerretsen: Well, we have to keep the government awake, you see.

Interjections.

Mr Winter: I was wondering how to start this presentation and the dialogue going on here gives me a sense of what to say. My name is Chris Winter. I'm the executive director of the Conservation Council of Ontario.

The Conservation Council is an umbrella group, an association of 32 provincial organizations, and we have quite a range of organizations in our membership, everyone from the Ontario Federation of Agriculture and other agriculture groups; the Federation of Ontario Naturalists, who you heard from earlier; the Federation of Ontario Cottagers' Associations, who I believe you're going to be hearing from; and the Ontario Association of Landscape Architects you'll be hearing from this afternoon. Each of these organizations has its own views on this bill, and you will be hearing from them.

In my role as executive director, I often see myself as being a bureaucrat, or an ecocrat, so my job is to put information in front of my members that allows them to

make informed decisions, and that's what I've tried to do with this brief, Planning for Nature.

I would like to say that in the past 10 years that I've been with the council, I've managed to learn quite a bit about different views and perspectives from around the province and also a lot about how governments handle issues. I would like to say there's a trend I've noticed that every government comes in with a strong mandate, or at least a perceived strong mandate, makes a few mistakes, learns from those mistakes, and then realizes it has to start doing good government. So what I'm about to say about Bill 20 and the Conservative government is something that I've seen with the previous NDP government and the Liberal government before that.

I think you have made mistakes with this bill in your process, with the haste you have put it through, and I hope we will be able to find some way to rectify some of the mistakes that have been made in a way that allows you to proceed with your agenda of streamlining and making the planning system more efficient, but also strengthens the commitment to protecting nature.

I use those words with some intent, "strengthening" and "streamlining." The only way that I believe you can streamline the planning system is to strengthen the commitment to provincial interests. The one I've looked at today in this brief is natural areas. With that, I'll just run you quickly through it.

We have here the context first. The context: I've pulled some quotes out from the minister, Al Leach, that basically say that the government's context is primarily economic in this. The environment is mentioned and the government does say, "We will ensure that environmental rules continue to be tough but do not stifle economic development and growth." Therefore, while there is a recognition of the importance of environment, to my mind it is firmly within the context of the economy.

One of the ways of looking at this, and that's the broader context, is the three intersecting circles of society, economy and environment. I would put it to you that the role of government, of good government, is to balance the needs of all three of those, not to accentuate one, but to make sure there's a strong balance between them and that the result is a healthy Ontario. To do that, quite often you have to look at the tensions and acknowledge that there are going to be problems and tensions between each of those sectors.

We've talked in the past about things like sustainable development and the marriage between environment and economy. I think in part we were fooling ourselves that we could come up with a harmonious balance between environment, economy and society. Tain't necessarily so, folks. There are always going to be tensions, and that's one of the things we have to recognize. We're going to lose on the environment and sometimes we'll lose on economy and sometimes we'll lose as a society. But we have to understand and acknowledge those tensions between the different sectors at a very early stage.

I pulled out some of the population figures for Ontario, because I think that is the major tension that we are going to be facing in the next foreseeable time period.

In 1867 we were a population of 1.5 million; we are now a population of 11 million. By 2001 Treasury and

Economics estimates we'll be 12 million. If you look at the population by regions, the greater Toronto area is now 4.4 million, and that's estimated to grow to 6.1 million by the year 2011, almost an additional two million people within the greater Toronto area. That's the critical challenge.

This challenge is also going to be mirrored in other areas as well, so there are going to be other key pressure points. The question is, how do we accommodate this?

The formula—it's a simple formula, but the one we use is $I = PAT$, where I is the impact on the environment, and it is the result of the levels of population, the affluence of that population and the technology we use to achieve that affluence. I will put it to you that the planning system is a technology that we have, and the least disruptive way of minimizing impact is to fiddle with the technology, fiddle with the tools that we have. No one wants to change our level of affluence and no one wants to question the levels of population. So the most important and immediate thing we can do is make sure the technology we have is the best, state of the art.

If I look at the strategy for protecting nature, first of all, within the environment sector, that one circle on the environment, our goal of a healthy environment, there are three basic things you have to do to have a healthy environment: protect nature, conserve resources and prevent pollution. You do those three things, you're guaranteed a healthy environment. You mess up on any one, and we're screwed.

Within the aspect of protecting nature, a natural areas strategy looks at protecting natural areas, sustainability in the use of natural areas for the economy and livability of the environment and, particularly in this instance, the urban environment which is an aspect of the planning system.

The tools listed there: parks, planning, voluntary initiatives, and out of that we get to the planning system. So that's the context in which I'm looking at Bill 20 and the planning system.

When we look at a natural areas strategy, as I said, there were three main goals: protect significant ecosystems. There are times when we're going to look at natural areas and say: "This is important. We have to protect it. It takes priority over economic and social needs." There are going to be times and the rest we'd look at and say, "We want to make sure that the use of these areas is done in a sustainable and environmentally sound fashion." Third, we want to maintain public access to high-quality natural environment. This is a social aspect.

There you see in those three goals, we're mirroring the ecological, the economic and the social aspects.

The tools which we have for dealing with this strategy: acquisition, governance, voluntary initiatives, public outreach, which again leads to voluntary initiatives and review and improvement.

I went through and listed a number of the natural areas strategies, so I won't go into them at this point. Suffice it to say that in southern Ontario, the Planning Act and the planning system is an essential component of this. It's the most important piece in a natural areas strategy. So if the Planning Act and the planning system are weak, then our commitment and our resolve to protect natural areas in southern Ontario in particular is threatened.

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Next, we looked at an overview of Ontario's planning system. It starts with a provincial framework: the legislation; provincial plans, recognizing that the province has the ability to do plans itself for areas of key importance; consultation and review. Conservation authorities' role: As a special agency, they are able to play a special role in protecting natural areas and managing ecosystems. The role of upper-tier municipalities and lower tier-municipalities in preparing plans, and also the ability to set aside natural areas as parks.

Then, finally, community action: That's something that isn't really referred to in Bill 20, but it is a very important part of the planning system. I'll just take a little pause here to plug a book we have, *Community Action for the Environment*, which is working in about eight communities across Ontario and allows communities to involve the community groups and public interest groups in not only saying, "This is what is important to us," but also, "Here's what we can do to help." So the planning system should not be just aimed at government doing the answers, whether it's municipal government or whoever. There is a very strong volunteer role, and communities should be able to take an active role in creating their own environment, a healthy environment.

The proposed changes to the planning system: Now we get to the meat. Now I've set you up on the context and I hope you understand that the planning system to us is extremely important within our ability to achieve the goals of a healthy, natural environment. The key changes:

(1) Replacing "shall be consistent with" provincial policy statements with "shall have regard to." This, to my mind, does effectively weaken the power of policy statements to guide the planning process. Policy requires enforcement. If it is not to be directly enforced through the Planning Act, then the province needs to outline how it will ensure local adherence to provincial policy.

(2) It changes the approvals process significantly. Bill 20 gives a number of counties additional powers to approve subdivisions and it allows the minister to exempt municipalities from the requirement for ministerial approval of official plans and official plan amendments. This further devolves the role of the provincial government down to the municipal level and it weakens the ability of the provincial government to maintain control over provincial interests.

(3) It changes the appeal process significantly. It makes the Ministry of Municipal Affairs and Housing the only provincial ministry that can appeal a planning decision to the Ontario Municipal Board. This limits the ability of other ministries to speak on behalf of the provincial interest. I recognize the government's desire to have the government speak with one voice, but it's very unclear how other ministries are able to present their views and make those views known and have priority within the government. So I would prefer to see the existing process remain.

(4) The policy statements under subsection 3(5) are to be replaced with a single, streamlined statement. Much of the detail of the previous policy statements have been eliminated. Now I noted in going through that there is a fair amount of consistency with the things that are here

with the old policy statements, but there are some significant gaps in it and Ms Churley pointed to some of them, and I agree with those.

Our council had a meeting with, I think, Mr Galt and members of the ministries of the Environment and Municipal Affairs and Housing, and went through the policy statements and will continue to go through those statements and make recommendations on how they can be improved. The problem, and I think it's a problem that was there already with the previous ones, is that they leave a lot of room for interpretation. The more condensed the policy statements are, the more room there is for interpretation, and that interpretation, given what Bill 20 is doing, is going to happen a lot more at the municipal level, rather than at the provincial level, and the requirement for municipalities to adhere to those policy statements is weaker.

So I think there are a lot of problems with the policy statements and a lot of problems with the planning system still and I don't think Bill 20 is going to rectify them. In fact, given the ambiguity and the scope or the room for interpretation, my fear is that there's a very real chance you're going to see more activity in the Ontario Municipal Board, and my sense is the Ontario Municipal Board may be strapped and handcuffed in its ability to interpret the policies because of the return back to "shall have regard to." So the municipal board may not be in an improved position to be able to speak out on behalf of environmental protection.

Finally, I've looked at some options, and these are options that I'm going to be presenting to our council, so you may get a further brief from the conservation council drawing from the briefs of our member organizations and trying to find some common points. But from my perspective, the key requirements that we need to do with the planning system are:

- to make sure there's better information on natural areas, features and functions as the basis for good planning; we need more information, more science, on what's out there.

- a clear statement of provincial interest; this is critical if we're going to have good leadership.

- third, the ability to ensure the provincial interest is met within the context of a streamlined and locally adaptable process.

I recognize the value of streamlining the process, of making it more cost-effective, but the key point for us is that the environment really doesn't care how quick a decision is made; it cares what that decision is. So streamlining itself is not really an environmental initiative. If you want to streamline, then you have to make sure that there are measures in this bill and in the surrounding efforts to strengthen the commitment to nature.

Here are some of the options:

- (1) Incorporate baseline ecological research into the planning system; for example, natural feature studies, watershed plans or subwatershed plans.

- (2) Strengthen and clarify the policy statement to provide a clearer description of the broad requirements for identifying and protecting significant natural areas, features and functions.

- (3) Restore a strong provincial role in ensuring consistency with the policy statement.

- (4) Provide support services to municipalities to assist in addressing provincial policy at an early stage and throughout the planning process; for example, model bylaws and study methodologies for things like natural features studies.

- (5) Develop additional studies or plans for areas of provincial interest, such as the Great Lakes, Oak Ridges moraine, and tobacco lands.

- (6) Build professional expertise at the municipal level or by pooling such expertise at the region or conservation authority level. If we're going to be asking municipalities to do more ecological research and to incorporate that data and information into their official plans, then we need to make sure that municipalities have access to, or have within their staff, the appropriate expertise.

- (7) Develop a provincial monitoring and reporting structure to compile municipal data on land use and natural ecosystems. One of my favourite little bugbears is the lack of clear, concise information on what's actually happening out there. Anyone who's interested in natural areas or the planning system has to become an expert and do a lot of digging before they're really able to understand what's happening out there. Government would certainly benefit from clearer state of the environment or state of resource reporting.

From these and other options it should be possible to design improvements to the planning system that will strengthen the environmental commitment while at the same time facilitating a streamlined planning and approval process.

So those are the options. Our council will be discussing them and I think they give you some flexibility to say how you can implement those options. It's not a prescriptive thing, but there is some room for you to come to us and say, "Here's what we think will improve the planning system," and we can respond to that and work with you.

The two key steps that I see: First is to strengthen the commitment within the Planning Act and I would suggest that Bill 20 could address this need by including a new section, possibly in part III dealing with the official plans, to the effect that every municipality shall be required to produce a natural features study or subwatershed plan in order to document the natural areas, features and functions within its jurisdiction and identify those areas, features and functions that require special protection under an official plan, as well as opportunities to enhance the natural environment within developed areas. In other words, if we're serious about protecting nature in the province of Ontario and if we're serious about using the planning system to achieve this goal, then let's say it in the Planning Act and let's put a requirement in there that is going to trigger changes to the planning system that will allow us to identify natural features and identify the tensions and conflicts and resolve them at a very early stage. This recommendation sets in place the research and the information that will then lead to better official plans and better planning decisions.

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Second, initiate a focus study to determine the most cost-effective means for meeting this commitment within a streamlined planning system. I recognize that what I'm putting before you is quite a mouthful, quite a chunk, so

what I would suggest is that the province should put in place a broader consultation process that is going to deal with Bill 20 and the planning policy statements and the whole planning system and say, "Okay, on an ongoing basis, how can we make this work?" How can we look at some of the options that I mentioned earlier and incorporate them into the planning system?

I think there are some good examples of municipalities. Richmond Hill and Waterloo are two that I have been told of that have done some good ecological planning and integrated that in with their official plans, so there are some good examples. What we should be striving to do is take those good case studies and turn them into common practice across the province. That's the thing that I think you'll find the conservation council and its members are willing to work on, and that, I think, will lead to substantial improvements in our ability to protect natural areas and essential ecological functions that are going to be extremely stressed over the next 20 years. Thank you very much.

Mr Gerretsen: I would just like to congratulate you on the positive, next-step approach and the amendment that you're suggesting for part III because it's always seemed to me, dealing with policy statements in general, the criticism has been that the policy statements that were developed under the previous government are so expansive that one could take any one policy statement and it would contradict slightly another policy statement. Nobody knew what to make of it, whereas now they're so wide and broad, as suggested in this new act, that really nobody knows what they mean. Anybody can give any kind of interpretation to a very broad statement. I think that the suggestion you have made is actually a very positive one, that if each municipality did set out in a straightforward manner, as the result of a study, what its environmental policies were for certain areas, areas that needed to be protected, then you could get through a lot of this mishmash of either too much policy statement or too little. So I concur with that and will certainly take that up within our own caucus.

Ms Churley: I appreciate your calm, cool presentation and your charts and graphs. It cooled us all down, especially me a little bit. Given the short time frame, I just want to ask you about consultation. I'm glad to hear that you are consulting with Dr Galt on the policy statement. However, given that people don't have to be consistent with it, I wonder about its value. But I want to ask you, were you consulted before or during the drafting of Bill 20, and if you were, were any of your concerns or suggestions included in the bill?

Mr Winter: To my knowledge, I know I wasn't and the conservation council wasn't and I don't believe any of our member organizations were consulted.

Ms Churley: What about conservation lands, given that municipalities can now sell them off and are being defunded by the government? Are you concerned about that?

Mr Winter: I am. I have one case study in the town of Cobourg, which I believe Mr Galt now represents, where there was a conservation authority that was going to let the municipality develop parkland for a baseball complex. It just so happens that it was my parents, who

retired there, who led the battle against it, or helped lead the battle against it, and eventually managed to convince council to change its mind on that.

When I hear people say that the system has checks and balances, that the OMB is there to protect, that public consultation and input is there to protect natural areas, that worries me. To put that kind of reliance on the public to be ever-vigilant and standing guard against bad development proposals is something that worries me immensely. The more we can put those kinds of controls into the planning systems so that we are instilling an environmental consciousness or an environmental conscience, into the planning process, the better the planning decisions will be that come out at the end and the more efficient it will be in the long run.

Mr Baird: I appreciate your presentation and the amount of time you put into it. One thing I was particularly pleased with was that in the executive summary you mentioned "at the same time meeting the government's stated priority of streamlining the planning and decision-making process," and then I went on to read your number 5. Do you believe the process needs to be streamlined and made more cost-effective?

Mr Winter: I have two answers to that. One is it helps society in the long run to have an effective and streamlined planning process. It means we are a more efficient economy. On the other hand, from a purely environmental perspective, the more hoops and barriers you have to development, the better off the environment is, because at this point in time the more conflict there is, the less chance there is that significant piece of wetland or natural feature is going to be developed.

Mr Baird: In principle, you would support hoops and barriers in legislation and regulations?

Mr Winter: The environmental side of me would have to say yes. The conservation council side, the need to look at a wide range of interests in the context of environment, economy, social, working for harmony between the three and a healthy province, would say that a streamlined planning process and a more efficient process is in the best interests of the province, so long as the commitment to protecting the environment is strong and remains solid.

The Chair: Thank you, Mr Winter, for taking the time to make a presentation today. We appreciate it.

LORRAINE KATRYAN

The Chair: Our next presentation will be from Lorraine Katryan. Good morning.

Ms Lorraine Katryan: I'm delighted to have the opportunity to speak to you today. Please note that I will be confining my comments to the apartments-in-houses side of the bill. I apologize that I don't have a written brief for you, and if my voice goes, it's because I'm not very well today.

I'd like to start by telling you a bit about my story as a homeowner in the city of Toronto with an apartment in my house. I've lived in the same house for the past 14 years. My former husband and I bought it as a young couple and it was barely affordable to us at interest rates hovering between 18% and 20%. When we bought the

house, it was a wreck. It was the worst house in the entire neighbourhood. It had a reputation. There were at least 20 work orders outstanding on the house. But we could barely afford it so that's what we got.

We worked hard to upgrade it. We fixed it. Over the years, we consistently put more money into it and brought it up to standard and now it's a very nice house and I get a lot of compliments on it—small but very nice. But if we didn't have the option of renting out an apartment, we could never have afforded this house.

We started out by renting out part of the house. Then later on my husband's family moved in with us, his parents, his two orphaned nieces whom we raised until they grew up and moved away. Eventually all the family moved away and we had renovated the house substantially and formally installed a basement apartment. The house was inspected and it's a very nice little apartment. When we separated in 1990, I would have been forced to sell the house if it hadn't been for the basement apartment. Only by renting that out could I keep it.

I've continued to rent the apartment for the last, it must be six years now, and it's been a lifesaver for me in terms of providing me with that extra income I needed to keep it and to maintain it. I'm in the process of making a few minor adjustments to bring it up to the fire code standards by July 1996.

I have a young couple living in the apartment. They get along with the neighbours. There have never been any complaints about my tenants. My tenants get along well with everyone in the neighbourhood. My neighbours understand my situation and are very supportive.

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Now let me contrast my story with my mother's story. She's a widowed senior living in Scarborough in the house I was born in and grew up in. She's lived there for nearly 40 years and she rents out an apartment in her house. She had that installed after my father died. She's a senior. She hasn't worked for more than 40 years for pay, although she certainly does her share of work in the house. She receives Canada pension and her only other source of income that she can survive on is the rent she gets. Without that rent, she couldn't get by.

Her apartment has been inspected many times. It surpasses the fire code. But she's on her own; she doesn't have a lot of supports in the community. Her tenants provide her with companionship and support. In fact a month ago, my mother had a heart attack and it was a tenant who found her, called 911 and saved her life.

If my mother lost her home because her apartment was shut down, she would become dependent on me and the public purse. I wouldn't be able to take care of her because I'm extremely busy and she couldn't manage the stairs in my house. She would have to go into a seniors' home and depend on government assistance.

Both my mother and I need to rent out an apartment in our houses, but we're in quite different positions because of the different stances of the municipalities we live in. In the city of Toronto, where I live, apartments in houses have been legal for many years. I'm secure in the knowledge that my apartment is legal. I don't have to be afraid of who is going to snitch on me to the authorities.

In contrast, my mother lives in Scarborough where apartments have always been illegal until the passage of Bill 120. My mother knows the fear of having to deal with inspectors, who sometimes harassed her, and she worries about her apartment being shut down. She worries that maybe one of the neighbours will have a grudge against her for who knows what reason and call an inspector on her.

She doesn't understand Bill 20. It's very confusing. She has no idea whether Bill 20 will make her apartment legal or illegal or what will happen because it's too confusing. There will be two sets of standards out there. Like other homeowners I've talked to over the years she's not going to come forward to any municipality I can imagine and report her unit if there's the least uncertainty about whether her unit will be legally allowed. She absolutely depends on that income for her home and for her living. She can't risk that.

If there's any confusion, homeowners are not going to come forward. Having an apartment in their house that they can rent out is vital to their survival, to their ability to pay their mortgage or, in the case of my mother, to be financially independent.

If Bill 20 is passed, the system will be confusing for homeowners and tenants. Each municipality will be able to set up its own rules and there could be different rules for different parts of the communities. Different standards will apply, depending on which municipality you live in, and it will be impossible for the average homeowner to sift through the morass of regulations, of rules: if this, then that; if that, then this. No one is going to risk losing their home to come forward and report it when the situation is like that.

Because of my interest in this issue, I also worked in Scarborough for several years on the struggle to legalize apartments in houses. During my five years working on this issue, I found that most people supported apartments in houses and wanted them to be legal. We did public consultations on the issue. We had ads in the local newspapers. We did public consultations. We were available to give advice and referrals to the public.

The general public was very supportive, very responsive and they supported apartments in houses being legal, but what they really wanted were safety standards. A lot of people told me stories about the apartment down the road that was in a terrible state of repair and was a fire trap. Once they realized that the reason these fire traps existed was because they were illegal and so there were no safety standards in place to be enforced, then people were very clear about wanting them to be legalized with appropriate safety standards.

As long as they remained illegal, they would simply continue to exist as they've always existed, 100,000 across the province, probably more than that, but they would just simply exist as an underground economy and there wouldn't be safety standards to apply to them.

The place where I did see opposition was from the municipal councillors. People like to say that municipalities are more in touch with the local needs, that they have their finger on the pulse of the community. What I found in Scarborough was that this was far from the truth. By the time Bill 120 was passed, I had a file this

thick of supporters. By contrast, over the years I had hated to maybe a dozen, maybe 20 people who were opposed to apartments in houses.

But municipalities were not listening to their constituents. They were acting irrationally and out of fear and hatred. They had no understanding why people like me needed an apartment in their house. They hated tenants. They didn't like immigrants. They didn't single mothers who had to leave abusive husbands. They didn't like workers who were tenants who couldn't afford to buy their own homes. They didn't like the people they were in contact with day to day, students, the people who pumped their gas, people who served them in stores, people who babysat their kids.

The city of Scarborough decided to study the issue. They undertook a \$125,000 study, which was largely paid for by provincial funds. They hired Frank Lewinberg, a consultant, to study this issue, and when he indicated that there was strong support for apartments in houses and pointed to the need to legalize them, the politicians were in an uproar. They wanted him to completely rewrite his findings, and when he refused, he was essentially forced to resign.

The city's own department then completed the study and they still found that two thirds of the general public supported legalizing apartments in houses with adequate and reasonable fire and property standards. So city council held public consultations on the issue. They organized a fair hearing. But then nine of the 14 councillors decided to unilaterally, arbitrarily pull their wards out of the public consultation process. All those people living in those wards were not going to be invited to the fair hearing, were not going to be given a chance to have their input or their say on the issue. Apartments in houses in their wards were going to stay de facto illegal because of the autocratic decision of just one single person.

Now you tell me how it is that municipalities that won't listen to two thirds of the public and won't let the issue be debated publicly are responding to the needs and concerns of their communities. This indicates to me that their motives are not rational, not based on reasonable planning principles, but are political. They were telling their own constituents that they didn't want to hear their opinions on the issue.

When they finally had their fair hearing, city hall chambers were packed. No matter what side of the issue people were on, everyone in that hall was appalled at the councillors' actions to exempt nine wards from that process.

Furthermore, I found it extremely interesting that when people came forward to the hearing to make their views known to the elected officials, the councillors consistently treated people who opposed apartments in houses very politely and asked them very few questions. By contrast, people who favoured apartments in houses were grilled for up to an hour with questions and insulted for their views. In fact, one woman said she'd have to come back with a law degree next time she appeared before city council because of the intense cross-examination she was exposed to at this so-called fair hearing.

When politicians speak about local autonomy, we need to ask ourselves whose interest they are really serving

when they refuse to listen to their own constituents in a supposedly fair hearing process. If Bill 20 is passed, municipalities will once more have the power to disallow people's much-needed housing. This is particularly disturbing at a time when the government is getting out of the housing business.

1100

It boggles my mind that this government says that it wants to encourage business, says that it wants to encourage private sector construction of housing, it supports free enterprise, it wants to cut red tape and it wants to eliminate public spending, and yet it's bringing in this bill which will do the opposite. We can only wonder what the motivation of this government is. Is it political rather than considering the best interests of the stakeholders who are affected by this bill—homeowners like me, tenants who live in them, builders, developers, small business people who are just trying to get a little bit of work renovating people's houses?

In fact, I understand that I am the only homeowner coming forward to speak to you who has an apartment in their house. But I'm not surprised. Who can afford the risk of coming forward when they could lose their home? Would you want to lose your home?

Now I understand that Bill 20 also gives municipalities the power to set up a public registration system and I'd like to address this for a bit. I think this is just going to create more red tape for homeowners like myself. Who's going to come forward, then, when there's so much ambiguity and confusion about what's legal and what the requirements are? Existing apartments in houses have to be inspected by the fire department and new ones have to be inspected by the building department. Why do you need further registration beyond that? To me, that's registration enough.

Why on earth would the government want to encourage municipalities to create yet another level of bureaucracy and more red tape, which simply is going to cost more public funds to administer? When municipalities are facing massive cuts to their operating grants and essential services or programs are being cut, why would you want to encourage municipalities to create more expensive red tape and duplicate services? It's pointless.

I would rather that my tax dollars go towards day care, which is being threatened a lot more by these cuts, rather than towards a public registry system which is just a duplication of the reporting mechanisms that are already there and which I think will all too easily be used by municipalities to crack down on apartments in houses for purely frivolous reasons.

Bill 120 did an important service to homeowners and to tenants. I feel for homeowners who live in areas where municipalities are opposed to apartments in houses, like my mother in the city of Scarborough. I know that new units will be illegal under the restrictive zoning and that existing units will supposedly remain legal, but who's going to understand that? Who's going to understand the complications and the regulations and the restrictions and the "if this, then that"? They won't. New, young homeowners won't have the option that I had to buy a house and rent part of it out. Seniors won't have the option that my mother has to rent out part of her house.

I think Bill 20 will be disastrous for people—homeowners like me who risk losing this vital source of income and tenants who need a place to live. As our population grows, where are people going to live? As our household size keeps shrinking and as there are more and more seniors, where are they going to live and who's going to look after them? Does the government want to put more funds into looking after them? I don't see this government doing that.

So my recommendation is to leave Bill 120 as it is. It was a reasonable bill that allowed reasonable safety standards to come into place. I hope that you will listen to what the people need as opposed to what developers need. I'm not even sure where the rationale for the apartments-in-houses side of this bill is coming from. I don't even know who you're listening to. What I'm asking is that you listen to the people.

Mr Gilles Bisson (Cochrane South): Thank you very much for your presentation. I ask myself the same question and I'm going to ask you a rhetorical question. I look at the policy, as it exists now, that was created under our government and the move by the Conservative government to get rid of this legislation. We know that the government wants to encourage the construction of new apartment buildings and new units overall for the marketplace. I don't see that going in this direction.

I take it that the government doesn't favour the ghettoizing of low-income people in only particular parts of our community, but I see this, as well as other things they're doing, as moving in that direction because what happens here is that they're giving, as you said in your presentation, the ability for a local council to say, "I don't want in my ward, where we have well-to-do people, apartments in houses because it might just attract into my ward the undesirable people of our society."

I guess the question, and I'm going to ask it myself and maybe you can shed some light on it, is, what really is this all about, in your estimation? What do you think the government is up to here?

Ms Katryan: I agree with everything that you've said and I'm asking myself the same question. I mean, it makes no sense to me that a government is trying to promote free enterprise on one hand and yet clamping down on one of the most basic forms of free enterprise on the other hand. So what's the scoop here? Is it that this government wants to keep people homeless? Does it like homelessness? I don't know.

Mr John R. Baird (Nepean): Come on.

Ms Katryan: Maybe that's a little extreme, but I don't understand the rationale for this bill. You tell me what the rationale is.

Mr Bisson: I have to ask myself the question, because I'm sure that the members here, like all members of this assembly, want to do what's right for their constituents. I have to believe that and I know it's true. But I have to ask myself, where does this policy bring us to that end? I've got to put the question back to you. I can't believe that this government wants to ghettoize people. I can't believe that's the direction here. But then are they saying, "We're only going to allow certain people to get into the business of rental units," maybe that part of it? "We don't want homeowners to get into the rental business,"

for whatever philosophical reasons. "We only want big developers and landlords." Is that it? I don't know. I'm asking the question.

Ms Katryan: That's what it looks like to me. Maybe it's part of trying to keep certain people out of certain neighbourhoods. There's a lot of anti-tenant sentiment out there among certain people; I don't think among the majority of people, but certainly among certain privileged people. But I ask you, who are tenants? Tenants are people who can't afford to buy a house yet. I was a tenant before I was a homeowner. I bet most people who own a home now were once tenants. So all of this makes no sense to me.

Mr Doug Galt (Northumberland): Thanks for your presentation. I too was a tenant and then had a triplex, and it made it very easy to purchase our first home. I think I heard you say that you've had this apartment for six years, so this is long before Bill 120 came in. And it worked just fine. Certainly, I don't think it's an us-against-them or them-against-us type of situation. I see ensuring that apartments are registered to ensure that there's some safety standards there and that it's known where they are. When Bill 120 came in, municipalities were complaining that apartments could be built and they had no idea where they were, what was happening, how they got there. Because of Bill 120, homeowners had the right to proceed. We're looking at coordinating and pulling this together to ensure that safety standards are there. Are you opposed to that kind of thing?

Ms Katryan: First of all, Bill 120 requires that you either come forward with an existing apartment to the fire department or, if you want to build a new apartment, then you go to the building department. So what's the point in having another registry system? If you've already got to come forward to an official, then what is the city going to gain by having another office that you also have to report to? If you're going forward to the fire department or the building department, then that's in effect registration, if you ask me. So why do you need a separate registry system beyond that?

Second of all, if you're concerned about safety standards, then why on earth are you going to make most of them illegal again? Because we know what municipalities are going to do. Most municipalities made them illegal for years and years, despite all of the studies that showed that it was important to legalize them, despite all of the surveys that were done that consistently showed that between two thirds and three quarters of the population supported them with proper standards in place.

Bill 120 brought proper standards in place finally and now you're going to make them go underground again. It's not that people are going to stop renting their apartments. My mother lives in the city of Scarborough. Her apartment existed before Bill 120, because she needed it; otherwise where was she going to go? People need these apartments and they're going to put them in anyway. So if municipalities just make them illegal, then where are the safety standards? They're still going to be there, but there are no safety standards.

1110

Mr Gerretsen: If Dr Galt is suggesting that the major problem is safety standards, then we've got mechanisms

to deal with it. As you've indicated, we're already dealing with that.

I guess what it basically boils down to is that there was a great debate over what we do with these 100,000 units. The determination was finally made to legalize them. All we're doing by sort of driving it underground again is that five or 10 years from now they'll have to pass another law legalizing them all again.

I'll ask you the same question I asked somebody, I think the only person who spoke against having the basement apartments. I asked this question and I was surprised by the answer, although I take it the government members agreed with it. The notion that I'm stuck with in my own mind is to take a subdivision. You've got two identical houses. Somebody has already built an apartment in one of the units, which is perfectly legal now under Bill 120 and will remain legal. Do you think it's fair to say to the other homeowner who lives right next door, "You can't build an apartment in exactly the same kind of house as the guy next door has?" Do you think that's fair?

Ms Katryan: I would be furious if I was that neighbour next door. Why do you want to set up a system that arbitrarily allows apartments in one house and doesn't allow apartments in the next house?

Mr Gerretsen: Exactly. It always reminds me of the story where—and this actually happened to me—many years ago somebody said to me, "I'm against all these basement apartments. You've got to get rid of them," until they wanted one themselves for their own in-laws. Then, all of a sudden, that person completely changed her mind on it. I guess what I'm suggesting to the government members here is that we all know where this is coming from. This is coming from the more affluent subdivisions where people basically don't want other people having apartments until they themselves want them for one of their own relatives etc. I agree with you. Take another look at it. Two thirds of the people are directly opposed to any changes in the law as it currently is. I totally agree with your presentation, by the way.

The Chair: Thank you for taking the time to make a presentation today. We appreciate your comments.

ONTARIO URBAN TRANSIT ASSOCIATION

The Chair: Our next presentation will be from the Ontario Urban Transit Association. Good morning.

Mr Dave Roberts: Good morning. Thank you for the invitation. My name's Dave Roberts. I'm the executive director of the Ontario Urban Transit Association. I will try to keep my remarks fairly brief so we do have a bit of time for questions.

Just as a brief introduction, we are the association of virtually all of the urban transit systems within the province, and that is anyone from the TCC right on down to some very tiny systems in communities you may not even believe have transit systems. We serve ultimately about seven million of the province's population in those urban areas.

I'll get on to our specific concerns on Bill 20 and also the related policy statements shortly. Just a little bit of a

very brief background: Our reason for being here is the very strong link that exists between land use and transit's ability to work and work well.

We have seen a situation, truly over 50 years, where the changes in land use, the more sparse development of land use, the suburbanization of urban areas, has literally led to a level where transit simply cannot compete against a car in so many of these different areas. We have done research in these areas and there's a lot of other research available, but our industry has concluded that land use is probably the single most important reason that transit has not been as successful as it should be, especially in those suburban areas.

We do differentiate with transit. There are a lot of areas where transit works very well, and you don't have to look much further than the inner part of the city of Toronto and even certain aspects of the GTA, like the GO system, the TTC subway system and even some of the bus lines. Where you have the densities to provide good service, transit works well.

The other features which I note in our brief that help make transit work well also include that type of contiguous development rather than the spotty development, the mix of land uses, keeping those higher densities closer to where the main roads and corridors are, and something that we may not think too much of, but something as simple as sidewalks. There are still a lot of municipalities where there aren't even sidewalks that allow people to get to the stops, and that particularly is of concern for people with disabilities.

Some of the other things that work against it, of course, are just the opposite, including the big, wide arterials that a lot of people can't even cross in the cycle time and the circuitousness, reverse frontages etc of streets, and large parking lots.

We make reference to a document here called the Transit-Supportive Land Use Planning Guidelines, which was crafted about three or four years ago by the Transportation and Municipal Affairs ministries, which we think is a superb document. We'd like to see it used more. It covers all these items that we're covering—what makes transit work, what doesn't make transit work.

With respect to Bill 20, we have a few specific concerns. One which I'm sure you've heard perhaps several times before now is the elimination of the need for municipal plans to be consistent with the provincial policy statements. In our view, and again there are various opinions on this, that tends to be a pretty toothless type of provision. It seems that there will be lots of opportunities for "having regard to" equating to basically really not being consistent with or even paying much attention to.

The policy statements themselves, again, we like. If there are perhaps some opportunities to adjust them, if there are some concerns about the policy statements, that's probably a more effective way to do it, but not to basically render them impotent as a result.

As we state here, we believe that the provincial planning role should be to establish the certainty that's required; also to set the overall policy and have mechanisms in place to ensure that it's carried out.

With respect to official plans, we have, I guess, very specific views on official plans that we would like to make sure that they exist, that they continue to exist. We're very concerned over this ability to grant exemptions or even the lack of minimum requirements. We feel that to be effective, an official plan needs to have a transportation plan in it, and included in that would be the transit services that are part of the plan, things like modal split targets that would provide the kind of guidance that the municipal officials and the developers need.

The third item, multi-unit residences: I just heard that you were talking about that with the last presentation. We do have some concerns about that as well, for our own reasons. To be effective, we have stated again, transit needs a reasonable density of population to support the service. By that, we don't mean a sea of high-rises in every municipality; far from it. We think there are very intelligent ways to improve densities. Things like infilling is one of them, certain amounts of multi-family residential areas, say, near to the corridors and the nodes etc. But the basement apartments and the second units are all part of that as well. It offers some careful opportunities to improve those densities.

I heard on the news this morning that according to a poll, they estimate 25% of all Canadians are anticipating that their parents or their in-laws are going to move in with them at some point in time. This kind of move here could make that very difficult for them and in effect basically force them into seniors homes, institutions etc, which I don't think anybody wants to see.

The fourth point is development charges. We are concerned over the further restrictions and things like the registering and the fees, which seem to be, again, unnecessary administrative burdens and red tape. We feel that it's more than fair that development charges are the best way to pay for services being introduced into new areas. There has to be investment to put roads in, to buy the buses to provide the transit services, and it has to be done early in the process to ensure that people have that opportunity to use transit at the earliest stage. We'd rather see that than see that cost just passed over to the taxpayer.

A few concerns with the new policy statements, which of course are related to the legislation: We are supportive of good policy statements. Some of the concerns we've listed here appear to us to be a weakening of the policy statements that are now in place. We feel, when transportation infrastructure in particular is talked about, that we would like to see something in there that talks about a preference for transit, or at least sufficient planning and facilities to make transit effective. The existing statements do mention the need to integrate, not only with the neighbouring municipalities but also with other modes like inter-city bus modes, rail etc.

There are obviously fewer restrictions on greenfield development. I think we recognize there are going to be some, but we think the statement needs to be made that this should be basically a development of last resort, and if there is to be greenfield development, it has to be built on to existing built-up areas and not just pockets of development helter-skelter. We make the point here too that this doesn't add cost only to transit but to all municipal services.

1120

We are also concerned that there's no mention of the need for pedestrian facilities. This may seem pretty simple and pretty straightforward, but there are a lot of suburban municipalities that simply don't put those in, and the impact on people with disabilities is considerable. We and the Ministry of Transportation are trying to promote full accessibility to transit, basically to curb the spiralling costs of specialized transit. But if people can't get to the stops, this isn't going to work.

Finally, we'd like to see reference made in the policy statements to the Transit-Supportive Land Use Planning Guidelines and give some kind of a strong message that these are pro-transit, they are workable and municipalities should be encouraged to use them.

In conclusion, why are we concerned? The main concern is cost; more specifically, tax dollars. That's related primarily to the cost of transit trying to serve a sparsely developed area versus an area that is well planned and has the kind of densities, the kind of facilities, amenities, that will support it. Also, of course, poor land use planning and lack of amenities makes it very difficult to attract people to transit.

That's all I have to say on the prepared remarks. I thank you for the opportunity to speak to you. I'd be happy to answer questions and to also provide any other input that we can on transit aspects of these or any other issues.

Mr Bruce Smith (Middlesex): Thank you very much. I apologize for my voice this morning. My question relates to perhaps a general comment first. Last week, we had Bob Lehman here of Lehman and Associates, a planner of 20-some-odd years' experience, and he clearly articulated that there is an increasing transition to community-based planning. Would it not be your contention that in that context we're not witnessing an increased awareness of transit-oriented-type issues and that it's better debated at that level than in a broader-policy, provincial context?

Mr Roberts: My background isn't planning, and I wouldn't want to contradict what was said there. I think in general he's probably right. We've already seen some examples of what's known as neo-traditional planning in communities like Markham, Oakville, Orangeville. Those are the ones that come to mind. I think certainly we've made some progress and there is a good understanding of it. However, our experience is still that it's spotty. Some municipalities are very positive. Burlington has come up with some very positive statements and policies towards transit. But others are very much non-supportive. We've already had at least one municipality within the GTA at the council level questioning whether or not they can even afford to have a transit system.

As we said earlier on, one of the biggest hurdles, especially in an area like the GTA, is that intermunicipal coordination. Again, leaving each municipality to do its own thing we think is going to lead to a somewhat chaotic solution and make it very difficult to do things in a coordinated manner.

Mr Smith: As a former municipal planner myself, certainly in London we've witnessed a continued decline in ridership. I've always had difficulty making the

linkage or bridging that problem with the establishment of provincial policy and what in my mind appears to be a transition in personal or individual choice. How do we address that whole issue, given that there's an apparent interest on the traveller's part to use a private automobile irrespective of the presence of some of the design guidelines you alluded to in provincial policy?

Mr Roberts: I think we've seen in the last few years that transit certainly has declined in ridership; there's no question about that. Certainly the recession had a lot to do with that. But I think the continued drift towards the more sprawled-out type of land use has had more to do with that as well. We feel very strongly that we can attract people to transit if the circumstances are right. Again, there are in the more densely populated areas people of all walks of life who use transit, and use transit by choice because it's convenient and it's as good or better a choice for them.

There will always be people needing to use cars. They're not going to go away; nobody pretends for a moment that will happen. That will be especially the case in areas like—again I use the area of Toronto as an example, with people going from suburb to suburb where transit facilities are simply not in place. But again, if we can strengthen those nodes, strengthen those corridors, we can overcome some of those things and provide better transit services. That is the way I think we'll attract more people to transit.

Mr Jerry J. Ouellette (Oshawa): Thank you for your presentation. As the title of your organization indicates, Ontario Urban Transit Association, you implied that sidewalks are one of the areas that should be looked at. Don't you think, though, that the individual municipalities should have the right to determine what should be required in the community?

One of the other things that you mentioned was the developmental charges. Do you have anything that shows that the developmental charges that are actually collected are being spent in the area they're collected from?

Mr Roberts: On the first item, sidewalks, I don't think we're saying that we have to specify the standards to every municipality for sidewalks; far from it. But I think some minimum standards are appropriate; again, minimum standards to ensure that people have some access to transit or whatever. Where that level is set, I guess, is a matter for debate perhaps.

As far as development charges are concerned, in transit we have seen, again, quite a mix of experiences. Some municipalities are using them and making use of them and some are not. Some are also being constrained by, I think, an earlier version of the Development Charges Act that tied what they can collect to some kind of a historical level of service. In many of the developing suburban communities, those historical levels have been pretty poor and it's restricted what they're able to fund through development charges.

Mr Gerretsen: Did your organization make a presentation to the Bill 26 committee?

Mr Roberts: No, we didn't.

Mr Gerretsen: I don't believe you did, no. I'm just curious, because there was a very small clause on one of the more obscure pages in that bill that clearly indicated

that the subsidy money that would be forthcoming from the province to the municipalities was going to be reduced from an amount equal to whatever the system cost, and I know there are different ways of calculating it, to an amount not exceeding, which means that it could be anything from 0% to 50%. I was always kind of surprised, having worked with the transit system in the Kingston area because I was a member of that committee, why nobody ever came forward. How do municipalities that operate transit systems feel about that lack of funding that may be forthcoming, or not forthcoming?

Mr Roberts: They're very concerned, no doubt. We've had some considerable discussions with the Ministry of Transportation people on this. I guess their position, and it's pretty hard to argue with it, I suppose, is that when all is said and done, the legislation changed "Thou shalt pay 75%" to "up to 75%." The ministry people basically confirm that this is what has been happening regardless. In other words, they can only spend what their allocations are. They have in the last two to three years, two years for sure, put what have to be considered arbitrary caps on funding that has fallen short of the amount that's called for in the legislation. They've been doing this simply because that's what their allocations were.

Mr Gerretsen: But the bottom line is that it would be a lot easier to do now, and there may be some year when you won't get anything at all unless the legislation permits it.

Mr Roberts: Yes, That is a concern. The ministry also advised us that its legal opinion was such that it could do that any time that it wanted anyway, so this is really nothing more than a housekeeping act. It didn't make us feel any better necessarily.

Mr Gerretsen: We got a few other legal opinions about direct taxation by municipalities etc, but they were all over the place too.

Mr Murdoch: Different lawyers.

Mr Gerretsen: Yes, from different lawyers you get different viewpoints. That's the way it goes. Did you guys have a question?

Mr Hoy: I have just a comment on your multi-unit residences. This is a different piece of information that rather supports the use of basement apartments, where you talk about population densities that would help increase transit. It has been pointed out by others that many of the people in these units do not have a vehicle, and it would make good sense to utilize the best interests of the apartment and the transit system. I'm sure you would find passengers in these routes.

Mr Roberts: I am sure, and we would support that very much. In fact, I'm sure, again if that poll is any indication, a goodly portion of these people could well be seniors, who are very much one of the key markets for transit and the people who need the services the most.

Mr Gerretsen: Well, this government may be anti-senior, from the looks of it.

1130

Mr Hoy: I believe you mentioned the possibility existed that families were going to take in their father or mother as they age. I have a neighbour who has gone one step forward. He believes that his children will not find

jobs at a very early age. They are only in public school now. He is trying to crystal-ball the future and his view is that they will not find a job at any traditionally early time in life and has built a house that is large enough to keep them until they are close to 30 years old. Then he believes a switch will take place: They will take over the house and he'll live in the bottom half.

Mr Gerretsen: How depressing.

Mr Roberts: If nothing else, those also may be people who could be very much appreciative of a good transit system.

Ms Churley: I just have a few questions, one very quick one which my colleague Mr Bisson, who had to leave, wanted me to ask you. Are there low-rise buses in existence now?

Mr Roberts: The low-floor buses? Yes, there are only a few right now. There are a few in Kitchener and a few in Thunder Bay, and I think one or two very small communities.

Ms Churley: Thank you. I just wanted to come back to the issue of lack of planning consistency, which is an issue that comes up time and time again, and there seems to be a division right down the middle. Developers and AMO and some municipalities really like reverting back to "have regard for." I would like you to talk a bit more about how you see these kinds of inconsistencies affecting the municipalities, especially, as you say, in the greater Toronto area. What do you think could be a negative outcome of that?

Mr Roberts: A couple of things come to mind. Some of the inconsistencies and some of the lack of minimum standards lead to what I would consider sort of an unhealthy competitiveness between municipalities, where in municipality A a developer says, "We want this, that and the other thing, and if you don't grant it to us, we'll go next door to your rival." So it's almost the lowest common denominator kind of approach.

The consistency with respect to transit as well is so that people who have to cross boundaries and go from one municipality to another can do so with a reasonable level of coordination and convenience. The other point I would make is that I don't think we're saying that provincial policy has to be intrusive, but it has to set down what the basic rules of the game are. Then developers know what they are, planners know what they are, transit people, riders etc, and you're not seeing the mosaic of the good and the bad from municipality to municipality.

Ms Churley: Of course, in the Golden report, whether or not everybody agrees with all its recommendations, certainly a major recommendation, and I think it's pretty obvious to everybody given what's happening now, is that that kind of consistency and uniformity and coordination between regions is very important. This, to me, seems to be going in the absolute opposition direction. The Minister of Municipal Affairs is saying he's going to consult, and hopefully we can make some amendments in this bill to make sure that kind of coordination is there.

I just want to come to the developer charges. That's a concern of mine as well, and of many people, that the general taxpayer will end up picking up the cost. Do you expect that transportation needs will grow significantly

enough, especially because this bill promotes urban sprawl, that taxes could rise considerably?

Mr Roberts: That may happen, but I think our greatest concern is that councils are going to say, "We can't afford to service that new development now," so we'll wait and we'll wait, and by the time the people have moved in there, they've already bought their cars, established their transportation plans, and you've lost them forever as potential transit riders.

The Chair: Thank you, Mr Roberts, for taking the time to make a presentation before us here today. We appreciate your comments.

GEORGIAN TRIANGLE DEVELOPMENT INSTITUTE

The Chair: Our next presentation will be from the Georgian Triangle Development Institute. Good morning.

Mr Colin Travis: We certainly appreciate the opportunity to address this committee today. My name is Colin Travis. I am past president of the Georgian Triangle Development Institute. My colleague is David Slade. He is the existing vice-president of the institute. I will summarize some introductory remarks and David will go through some specifics as far as our responses to Bill 20 are concerned.

At the outset, I must thank the committee for providing us this opportunity and I'd like to acknowledge the efficient and professional manner with which our request was dealt by your clerk to this committee: much appreciated.

We are again addressing a committee dealing with planning matters within this past two years. David and I have used this opportunity as a moment of reflection because we appeared before the standing committee on Bill 163 in Peterborough back in September 1994. It's a very important point of reflection for us because at that time we emphasized the need to proceed in a cautious manner due to the dramatic proposals contained in that piece of legislation. We pointed out the obvious, that is, that the province is extremely large and diverse, and we asked that the committee at that time pay particular attention to a rigid set of rules and policies that would seem to be imposed from above down to municipalities in a cookie-cutter sort of fashion.

We also questioned the big thing at that time, the "to be consistent with" provision in the bill, and suggested that the arguments supporting that were inadequate at that time because we were going to abandon the "shall have regard to" provision that had been in place for I suppose 15 to 20 years prior to that.

Finally, to that committee we expressed the need for a streamlined review and approval process.

We came away from that committee feeling that our thoughts of the day ran contrary to the nature of Bill 163 and its provisions. In speaking with some people, we couldn't understand the doublespeak that equated local planning autonomy with procedural simplicity along with prescribed official plan contents and 600 pages of policy and implementation guidelines. Today we find ourselves before you, another standing committee charged with gathering the public's thoughts on planning legislation.

This time appears to be a little different. We do not have any serious cautionary flags to raise, given what we

had said before Bill 163's standing committee. It appears that the principal provisions of Bill 20 address the concerns we had before in 1994.

None the less, the review period for Bill 20 does appear to be short. We would like an opportunity to submit a further written submission to this committee before it retires.

Having said all that, I'd like to turn the table over to Mr Slade, who will review some of our specific comments on some of the provisions of Bill 20.

Mr David Slade: The institute recognizes that a significant attempt has been made to introduce a balance into the legislated planning process in Ontario. Bill 20 redresses many onerous and apparent contradictions introduced through its predecessor, Bill 163. We felt there was a lot of confusion out there as a result of how it was done. There was so much material established, and I think there was a lot of contradiction as a result of that.

The speed at which Bill 20 has been assembled is appreciated by the institute as a laudable attempt at getting a critical process of governance to a state that resembles what we and many others had asked for two years ago: a fair, efficient and balanced planning process that acknowledges local and regional abilities and differences.

The cookie-cutter approach to planning endorsed by the previous government appears to be replaced by a "made in Ontario" and maybe "made at the local level" flexible framework that enables local municipalities to express their individuality while having regard to the overall policy direction. This is preferable to a prescribed imposition of provincial policy and implementation.

Specific issues we would like to talk about:

The "shall have regard to" provision of the pre-Bill 163 legislation had been in effect for two decades. We had always questioned the basis for the change proposed through Bill 163. We had questioned that change for two basic reasons.

The first reason was that there had been no substantive demonstration of a need to alter the wording. We had pointed out that if the need was related to establishing the primacy of the province in a policy-driven planning machine, then the existing "shall have regard to" was adequate. Ironically, what was inadequate was the province's implementation of the existing policy statements. We feel that in the past it was not the wording; it was just the follow-through of the province to "have regard for," and use that carefully, and when they did it there was a very inconsistent approach to how that was done.

The second argument for retention of "shall have regard to" provisions was that since it has been used for over two decades, there is a substantial body of direction and interpretation of its application through OMB hearings, tribunals of various sorts, and common law. The introduction of the "shall be consistent with" requirement, in conjunction with over 60 new policy statements as was done under Bill 163, would throw and has thrown the existing basis of interpreting provincial statements into chaos.

As private sector planners, we can attest to the universal confusion at all levels as to how far and in what

context these new policy statements should be considered. We were going to go through—hopefully not now—a whole decade of trying to understand what that "shall be consistent with" meant, let alone all the new policy statements that went along with it.

1140

In our experience, the net result of Bill 163 was that any application or decision made by the planning community after proclamation was made with reluctance to interpret provincial policy. Consequently, if any of the actors were to err, it would be on the side of rigid application and overcautious approach. That's what's happened. In reality, we just haven't had much go on for the last nine months to a year, based on Bill 163. People are very cautious, being government people, public, planners, to interpret what was out there. It was a rare individual indeed who would offer an opinion on the non-applicability of a provincial policy statement. How long would this go on? How long could it go on for? Thankfully, it appears not much longer.

Just some general comments about time frames: It appears that there are at least 14 distinct references to attempts to reduce the amount of time taken up for prescribed parts of the planning process. This is very important for two reasons.

First, the planning process is a very long and complicated one in Ontario. We are not advocating a simplistic legislative model because we fear it may not account for the desirable local public input and scrutiny of procedure. None the less, we do advocate that any required process be as short as possible, simply because many undertakings represent the cumulative effects of time frames of more than one process. There always is and always will be such overlap of process, whether it's official plan amendments, subdivision, whatever, zoning. We have three basic major processes in Ontario, all of which have a public input process.

Second, from a development sector point of view, reduced timing provisions also serve another important function. They send a message to the review and commenting agencies that time is a very important consideration in any matter. The idea of deadlines for both proponents and respondents is crucial for an effective approval and review system. The provisions of Bill 20 appear to balance this notion along with the need for agency and public input. However, these measures only address part of the timing concerns. We do have a concern with the agency's ability to meet time-line deadlines.

In that respect, the agency respectfully suggests that the committee consider the addition of provisions within the Planning Act which stipulate maximum agency response times to proposals, along the same lines as the public in response to the development approval process.

An example could illustrate this suggestion. An official plan amendment is received and circulated by the approval authority. The agencies or bodies so circulated have a maximum of 30 days to respond to the circulated proposal. No comments within the 30-day period means no concern. If they don't get back to you, then it's implied to be no concern. In a lot of cases there may be difficult applications. It's entirely feasible that even the

most complex of these application proposals can be addressed in that time frame. If the agency, however, requires more than 30 days to investigate it, it can respond accordingly with a brief summary of the requirements and requests for a 30-day extension. But we wouldn't want to see just a form letter going in. They have to have looked at the file and addressed the file and if, indeed, they do need more time, they explain why they need it. But they have to have looked at the file first.

Official plans: The institute supports the initiative of Bill 20 with regard to official plans; in particular, the appeal periods and the right to appeal directly to the OMB are seen as progressive steps in what otherwise could be a long, expensive and frustrating process for all concerned. In addition, the exemption model proposed in Bill 20 is a relatively bold initiative that could reduce time frames and costs associated with innocuous and non-contentious amendments. Of particular interest from a processing point of view is that such provisions would allow for an official plan to respond and adjust in a reasonable efficiency to a community's approach and treatment of short-term change.

The official plan's got to be fluid. I think the biggest problem is whammo, it's passed and then you can't look at it until a five-year review. Things are changing so fast that we have to have a fluid document, a document that people respect or they will turn around and won't use it. That's the worst thing possible. I think you want to have a document that is going to be used, but you've got to respect that and it's got to respect a time and change.

Ministry of Municipal Affairs and Housing: right to appeal. The institute supports the move to funnel appeals to the OMB through the Ministry of Municipal Affairs and Housing on behalf of all ministries of the province. This proposal is consistent with the down delegating of planning functions to municipalities. We have always questioned why the province would need more than one body representing itself at the board. I've been at many hearings where the province is there and they're there with five or three or four different ministries and, let alone cost and confusion, I don't think it's necessary.

The proposals are also consistent with our position that there are too many cumbersome and conflicting planning roles that have gradually evolved in ministries. That our province should be involved in planning functions is not a debate; just how many planning functions should be replicated throughout different ministries. Each ministry has its own planning department and they're there to protect that interest. But boy, then we end up with seven different ministries with seven different positions on the same planning issue.

Conclusion: The Georgian Triangle Development Institute have actively participated in the province's attempts at planning reform and review for well over the last four years. The basis of our previous response to Bill 163 and all that entails remains the basis for our response. Our position, observations and experiences have not altered that much. Frankly, what appears to have been altered is a government that is willing to consider change that will account for a need for a balanced and efficient planning system in Ontario. The industry is in dire need of a system that is efficient, open, reasonable and

straightforward and we believe now it appears that this will be possible.

Mr Gerretsen: I hope your wish will come true, but I somehow doubt it. It's always been my impression—and I'm glad you addressed that in your brief—it's the internal aspects of things, both at the municipal and at the provincial level; it's the "how long it takes to react to situations" etc. I like your notion that the different agencies be placed on notice and that the notice would be strictly adhered to because I think the public, the developer, the municipality have a right to know where every agency that has an interest stands on the issue.

I will ask you, and I've asked this of other people: Is it not true that most of the time lines we're talking about in the legislation are not the real time lines that are used in development? It usually takes a lot longer and if you know the particular municipality or the particular ministry is coming your way, then you're not going to appeal something just because they haven't done it within a certain period of time. Do you not agree with that?

Mr Slade: Certainly the time line changes in the legislation will help, but by no means that's the solution. It has to be an attitude with the ministries, with the local municipalities that time is important. Whether that attitude we're suggesting—maybe we can help it by putting some deadlines in place that will allow them to speed it up. But certainly the delay is not because of legislation, the delay is in how it's being implemented.

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Mr Gerretsen: I totally agree with that. Let me just ask you very quickly—we had a presentation this morning from a Chris Winter for the Conservation Council of Ontario and he came up with the idea that Bill 20 ought to be changed by including the following statement: "Every municipality shall be required to produce a natural features study in order to document the natural areas, features and functions within its jurisdiction, and identify those areas, features, and functions that require special protection under an official plan..." Would you people have any objection to that, because then at least it seems to me from quick reading of this, everyone would know where they stand in the operation?

Mr Slade: To be truthful, there is more than adequate documentation in place that would allow that to be done through an official plan preparation.

Mr Gerretsen: Where?

Mr Slade: The draft policy statements that have been issued to date would address those issues.

Mr Gerretsen: Unless they're weak.

Ms Churley: I'm not surprised or concerned about your position on Bill 20. After all, you do represent a special interest, the development industry, and that's fair. You're looking at this bill from that perspective. I know I can't persuade you of my opinion on this, but I'd like to try for a moment to at least let you see where I'm coming from.

On page 3 of your document, the last paragraph, you talk about "shall be consistent with" as opposed to "shall have regard to." First of all, I'd like to say, you mentioned the confusing and very long policy statements under Bill 163; in fact, it's the guidelines that really bedeviled a lot of people, not the policy, which I agree

has some real problems—too long, too confusing. But people are getting those guidelines mixed up with the actual policy statements. I just wanted to clarify that.

Coming back to “shall be consistent with” and “shall have regard to,” we looked at that as a government, and I know there were huge disagreements and there still are, but one of the things that municipalities and developers really wanted was for municipalities to not have to go running to the province all the time for approval. That was done under Bill 163 as well, but part of the tradeoff was that, therefore municipalities had to be consistent with provincial policy, and I think that makes sense. I think you have to have in that case a consistent—I believe broad and flexible—but consistent policies, in particular, protecting natural features and environmentally sensitive areas, and that kind of thing.

There's huge concern from environmentalists, cottage owners and the general public, frankly, that without that consistent policy, “have regard for” means exactly that. You pick it up and look at it and then ignore it, which we know has happened in the past. Very definitely that's what it means. There's absolutely no reason why you have to pay attention to it. You look at it, put it aside and say: “That's it. We don't like it. That's it. Let's ignore it,” and go on.

People are telling us that in fact, that is going to tie municipalities' hands even more, because cottage owners, property owners, ordinary people, environmentalists are going to try every move they can to slow things down, and there will be more OMB hearings because of that, because public participation has been curbed considerably under this bill. We have been told by many who know the process that in fact, it isn't going to work out that way, it's just going to make it tougher for developers.

That's the other side of the issue, and I certainly don't want to see things be tougher. I'm of the opinion we need to be as consistent as possible so we can get on with it, but in what I view as a very balanced way. I suggest that this bill is not going to give you what you think it is. I don't know if we have the time for a comment.

Mr Slade: I think I'll respond to what our submission said. First of all, we didn't see through the past 20 years of planning that there was a need. Again, I've been in planning for 20 years at many OMB hearings. The “have regard for” was respected at the board. Okay? It was not thrown out. It gave the municipalities, and I believe will continue to give them, enough flexibility to provide local input into the situation where the fear was “shall be consistent with” would not. The second point is we're going to take 10 years to sort out what “shall be consistent with” is, and we don't have the time to do that. We've got to get things organized and in shape, especially when there wasn't a need to change the existing legislation in the first place based on the past 20 years of planning, I believe.

Ms Churley: A lot of people would disagree with you on that.

Mr Murdoch: Thank you, guys, for coming down today and presenting the brief. It's nice to hear as progressive an organization as yours give us some encouragement. I wanted to note to Ms Churley that there's somebody from Grey who happens to agree with

her. She's had her way with us before when we've had a few other organizations in, like the better planners—

Mr Gerretsen: These are the first people from Grey who agree with her.

Mr Murdoch: Well, I don't know. Marion Taylor had some good points and some bad points. She was a little—

Ms Churley: I hope that's in the record. Marion Taylor won't like that comment.

Mr Murdoch: That's right. She was glad to see that I was here, so there you are. I want to get that on the record too, Marion. Anyway, we're certainly glad that you are here today and point out some of the facts to the other side there. They can't seem to get their facts straight, and of course we're concerned about the Liberals; we don't know where they've gone now. One day they vote against the bill and now they're here supporting the bill. We really have concerns about them.

Ms Churley: At least I'm consistent.

Mr Murdoch: At least the NDP are consistent in the way they are against development, but that's fine. The only thing we haven't mentioned here though is the minor variances and the local municipalities looking after them. We have heard quite a few concerns and even from many consultants that they don't want to see minor variances looked after by the local municipalities. Where do you sit on that one?

Mr Slade: Again, we did ask for the ability to respond further and that was one of the issues that we may respond on. Just as a general comment, though, I don't think it is a big issue in rural Ontario.

Mr Murdoch: Obviously.

Mr Slade: The issue appears to be in urban Ontario, in the big city centres, because of the power of the committees of adjustment. I deal with committees of adjustment right now that have severance ability in local municipalities, and they appear to have as good an ability as the upper-tier level, so I don't see a problem with the ability to down delegate to local municipalities.

Mr Murdoch: I think it's a rural/urban split, because we did have developers from the urban, large urban, and they were really concerned with it, so maybe we'll have to deal with that somehow.

The Chair: Thank you both, and I particularly appreciate your comments about the clerk. It's certainly our intention to try and operate this public participation process in a professional manner, and we appreciate your feedback. Thank you very much, gentlemen.

The committee stands in recess until 1 o'clock.

The committee recessed from 1158 to 1308.

CANADIAN INSTITUTE OF PUBLIC REAL ESTATE COMPANIES

The Chair: Seeing a quorum present, we'll proceed with the first presentation on this afternoon's agenda, the Canadian Institute of Public Real Estate Companies. Good afternoon. Please proceed.

Mr Ron Daniel: My name is Ron Daniel. I'm the executive director of CIPREC.

Mr Mark Noskiewicz: My name is Mark Noskiewicz. I'm a lawyer with Goodman Phillips Vineberg, and we advise CIPREC.

Mr Lorne Braithwaite: My name is Lorne Braithwaite. I'm president of CIPREC. I'm also president and CEO of a large public real estate company called Cambridge Shopping Centres Ltd.

I'd like to kick off our presentation and start out by saying thank you for giving us an opportunity to comment on the proposed changes to the Planning Act as set forth in Bill 20.

CIPREC's member firms, which total 29, represent about \$50 billion in assets and they include most of Canada's large publicly traded investment and development companies, large privately owned real estate companies, trust companies, life insurance companies and banks, so it's a very broad-based group. Since its inception, CIPREC has participated extensively in the discussion and formulation of public policy and legislation affecting the real estate development industry in Canada.

CIPREC previously provided comments to the Sewell commission and to the Minister of Municipal Affairs in 1993 and 1994 in respect of proposals for planning and development reform which led to Bill 163. In September 1994, CIPREC provided specific comments to the standing committee on administration of justice in respect of that bill.

CIPREC supports the general thrust of Bill 20 and believes that most of the proposed reforms contained in the bill are positive. In particular, CIPREC supports the government's attempts to streamline the development approval process and to promote economic development and growth without jeopardizing the environment.

Despite CIPREC's general support of the reforms contained in Bill 20, it believes that certain of the problematic provisions in Bill 163 are not corrected by Bill 20. Our submission deals solely with major aspects of Bill 20 that are either supported by CIPREC or represent an area of continuing concern.

To get into those details, I'd like to turn it over to Mark Noskiewicz.

Mr Noskiewicz: Mr Chair, members of committee, I believe you have a copy of our submission dated February 14. What we've attempted to do in the submission is to focus, as Lorne indicated, on the major aspects of the bill. We have not attempted to set forth a detailed or technical review of the bill. Our submission is organized to deal first with some aspects of Bill 20 which CIPREC supports and, second, with some aspects of Bill 20 about which CIPREC has some continuing concern.

Dealing first with the aspects of Bill 20 which CIPREC supports, I'm going to speak to three parts of the bill. CIPREC supports the return to the "have regard to" test. Second, it supports the elimination of the power given to approval authorities to summarily dismiss matters on the basis of prematurity. Third, it supports the streamlining initiatives.

Dealing first with the return to the "have regard to" test, when CIPREC made a submission in September 1994 to the standing committee on Bill 163, it set forth six reasons the change to a consistency test in the context of policy statements was inappropriate, and I'll just quickly run through those.

The first was that the legislative change to a consistency test appeared to have been fuelled by what we

believe was a mistaken perception that the "have regard to" regime results in policy statements being ignored. It's our view that this simply is not the case.

There have been a series of municipal board and court decisions which have held that ministry guidelines or other documents which are not properly promulgated under section 3 of the Planning Act as formal policy statements can't be given the same weight as policy statements, and there's no question that is the case. But to suggest that properly promulgated policy statements were ignored under the pre-Bill 163 regime we believe is simply not the case. As an example, the housing policy statement brought in in the 1980s has clearly been repeatedly referred to by the municipal board in its decisions.

The second reason a consistency test was inappropriate: It fails to recognize that planning decisions inevitably involve the resolution of conflicting or competing policies. It's instructive to go back to a document the Ministry of Municipal Affairs produced in 1986 when dealing with the use of policy statements. That document was prepared at a time when the debate between the "have regard to" test and the consistency test was perhaps a little less politically charged. The very first statement in that 1986 document said that planning by its nature involves the resolution of conflicts between competing demand for land and resources. The ministry's 1986 guide also went on to state that the reason the Planning Act does not require compliance or consistency with policy statements is that there is a need to provide flexibility to decision-makers in recognition of the fact that the significance and application of a particular policy may vary from area to area.

That really leads to our third reason, which is that a prescriptive consistency test is inappropriate, given the need for flexibility in planning decisions.

The fourth reason we gave was that a prescriptive consistency test was inappropriate in the Bill 163 context, given the lack of clarity in the policy statements that were being brought forward. We understand that the policy statements are also being reviewed, but I think the general comment remains. It would be our view that it is difficult in the planning context to reduce policy statements to a clear and concise set of rules, and in terms of having flexibility in the decision-making process a "have regard to" test is more appropriate.

The fifth reason we gave was that changing from a "have regard to" test to a prescriptive consistency test would open the doors, potentially, to legal challenges of planning decisions, which we believe runs counter to the government's stated streamlining objective. More fundamentally, it would be CIPREC's view that the appropriate forum to resolve planning disputes is in the first instance at municipalities and in the second instance at the Ontario Municipal Board, and not in the courts.

Finally, the sixth reason we gave was that the legitimate desire of the government to create a planning system that follows provincial policy is best met by promulgating clear policy statements. I don't think you need a consistency test to achieve that aim. You need to focus on having clear and comprehensive policy statements.

The second aspect of the bill that CIPREC supports is the elimination of the power that was given by Bill 163

to summarily dismiss matters on the basis of prematurity. Just to try to give an example that puts the issue in context, under Bill 163, if a local municipality, for instance, the city of Ottawa, adopted an official plan amendment to expand its urban boundary but the regional municipality, which in that case would be Ottawa-Carleton, thought the expansion was premature because of a lack of services, the regional municipality in its capacity as approval authority could simply have unilaterally decided the matter. There would have been no ability for the local municipality, in that case the city of Ottawa, to have the matter determined by the Ontario Municipal Board.

In CIPREC's view, the issue of prematurity of services is often an issue over which there is legitimate debate and is an issue which often has to be decided by an independent adjudicator. We welcome the elimination of the power for an approval authority to summarily dismiss matters on the basis of prematurity.

Finally, CIPREC supports the general measures aimed at streamlining. The time frames for processing development applications have been reduced, and CIPREC supports that. In certain circumstances, one will be able to appeal applications directly to the municipal board without having to go through a referral process, and CIPREC supports that. CIPREC also supports the power that has been given to the minister, in appropriate circumstances, to exempt official plans from the requirement to go through an upper-tier approval authority. It will be up to the minister, as we understand it, to decide what those appropriate circumstances are.

One issue we've raised is that Bill 20, as drafted, creates the situation that where the minister himself or herself is the approval authority, he or she could, by order, exercise this power. When an upper-tier municipal government is the approval authority, it would be up to that approval authority to decide whether to exempt the official plans of local municipalities from an upper-tier approval authority.

The point we've made in our submission is that if the government is truly committed to greater planning autonomy for local municipalities, it should consider giving the minister authority to directly exempt, in appropriate circumstances, all official plans from an upper-tier approval requirement. It seems to us it would be somewhat ironic and perhaps not the government's intention if it transferred all the official plan approval authorities to regional municipalities but then there was no ongoing transfer down to the local municipalities. We're not sure that was the government's intention, and CIPREC believes it's something the government should consider.

Turning to the areas of the bill with which CIPREC has concern, there is a continuing concern on CIPREC's part, and I understand others, about the continuing powers of municipalities to prohibit any use of land in environmentally significant or sensitive areas. Under Bill 163, as I'm sure you're aware, section 34 of the act was amended to permit municipalities to include provisions in their zoning bylaws which would prohibit—and the words used in Bill 163 were “all or any use of land” on land that fell into certain categories, for instance, a sensitive aquifer, a significant woodlot.

CIPREC and others objected to these new zoning powers because they appeared to give municipalities sweeping powers to prohibit development on certain lands and did not appear to mesh well with established planning principles that private lands may not be sterilized or turned over to public uses unless the municipality or some other agency is prepared to purchase them.

When we appeared in front of the standing committee on Bill 163, we gave three reasons for CIPREC's concern. The first was that when read in conjunction with the policy statements, there appeared to CIPREC to be great uncertainty about how wide the net was being cast in terms of what constitutes an environmentally significant area. The second concern was that there appeared to be no direction in the legislation as to how to balance quite legitimate environmental concerns with the economic interests of private land owners. The third reason was that environmental concerns have been traditionally thoroughly debated under the pre-Bill 163 planning regime.

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There's obviously a difference of opinion over this point, but it would be CIPREC's view that, pre-Bill 163, there were appropriate planning tools in the Planning Act and other legislation to allow for the protection of environmental areas. In our view, the new clauses that were added in section 34 should be eliminated. Bill 20 appears to have attempted to address this by modifying the phrase “all or any use of land” and changing it to the phrase “any use of land.” The municipality would still be able to prohibit any use of land. There appears to us to have been an intention to create some change, but it's not clear to us that any change of substance has been brought about by that change of words. To say you can prohibit “all or any use of land” or simply prohibit “any use of land,” it seems to us that there's no difference. If the intention was to bring about a difference, it would be our submission that the clauses should be eliminated and it should be recognized that the pre-Bill 163 powers are sufficient.

The second area of concern deals with the removal of minor variance appeals to the municipal board. CIPREC supports the retention of the right to appeal minor variance applications to the municipal board. Our understanding is that this change was fuelled, at least in part, by a sense that the municipal board spends too much time dealing with minor variance appeals, but our understanding is that in fact the municipal board spends a very small percentage of its time dealing with these appeals. As well, when you think about it, to an individual homeowner, a minor variance appeal could be the most important planning application in their lives. We believe, like any other planning application, it should be capable of independent adjudication by the board.

If the objective of eliminating the appeals is to have the municipal board spend less time with such matters, we think the change will not necessarily accomplish that. People who want to put an addition on their home, people who want to do something else that they currently do through the committee of adjustment, if they can't get the matter appealed to the board, may simply go through a rezoning exercise, which in the end may take up more of the municipality's time, more of the municipal board's time. We really don't see the wisdom in the change.

Finally, a third concern we've listed in our submission has to do with the requirement to convey land for a public transit right of way. Under Bill 163, there were new provisions added to section 41 of the Planning Act, which deals with the site plan control process, which allowed regional and upper-tier municipalities to require, as a condition of site plan approval, that land be dedicated for a public transit right of way.

There appears to be an analogy to the road-widening powers in the Planning Act, but CIPREC believes that analogy is inappropriate for two reasons. First of all, the land required for a public transit right of way will typically be greater than that required for a road widening, and thus the taking of such land will have a greater effect on the land owner. Second, whereas a road widening is generally felt to benefit the adjacent land owner by providing a better means of access to his or her land, you cannot make a similar presumption about a public transit right of way. The right of way may cut through someone's land but that person may be miles from an actual transit stop.

That's not to say that the government, when it needs land for a public transit right of way, shouldn't acquire it, but in CIPREC's view, the method of acquiring it should be through the expropriation process or some other process, perhaps negotiation, but they shouldn't just try to take it for free as part of the site plan approval process.

Those are our submissions on Bill 20. The last point I would just quickly mention is that we understand you heard a submission this morning from Yvonne Hamlin, representing UDI, on clarifications to the Assessment Act and/or the Planning Act dealing with the manner in which farm land is assessed, specifically farm land which may be zoned for future urban use. I simply want to indicate that CIPREC is supportive of the position we understand was advanced to you this morning by Ms Hamlin on behalf of UDI.

Ms Churley: I'm not going to pretend that we don't have many differences here. I think the one we all agree on is the minor variance. Everybody except, I believe, AMO's representatives—what was that all about? That was an interesting almost comment from you when I mentioned AMO. Did you groan when I said AMO?

Mr Noskiewicz: No.

Mr Gerretsen: The rest of us did.

Mr Noskiewicz: Well, I certainly didn't.

Ms Churley: Oh, you want that on the record.

Developers, citizens' groups, everybody seems to support that that needs to be amended.

I just want to come back to "have regard for." Even you would have to admit, I think, that under Bill 163 municipalities were freed up from having to come to the province every time they wanted approvals. Well, most other developers do agree with that. Part of the tradeoff was that therefore there had to be some kind of provincial policy to protect broad environmental issues, that the more you free municipalities to make their own decisions, there has to be—the environment knows no boundaries, as we well know, and there have been terrible, terrible problems, as we all know. You say there haven't been problems in the past. There's example after example, and

I'm sure you're aware of them, where there have been some very bad planning decisions made and the taxpayers end up picking up the bill to clean up the land and the water etc, etc.

That was the justification for it, and there are many who say that just the opposite of what you say is going to happen will happen. The jury's out at this point, and we'll find out, but in fact municipalities will be able to look and "have regard for" and then throw it away, and environmental groups, cottage owners and others will go—many more OMB hearings, much more disruption, because there is no clarity.

Mr Bisson: To what point do you balance it in favour of the developer? That's basically what you're saying.

Mr Noskiewicz: I don't think the purpose of our submission is to tilt the balance in favour of the developer. I think it's important to recognize that the problems you're referring to, the extent to which there have been bad environmental decisions, in my submission does not rest on the fact that there used to be a "have regard to" test. It rests on the fact—and I'm not familiar with the specific decisions you're referring to—that pre-Bill 163 there was not a clear and comprehensive policy statement dealing with environmental concerns. And that relates to the point I mentioned earlier, that the courts and the OMB, when they have not followed provincial guidelines, it's generally been in situations where the province had not incorporated its guidelines into proper policy statements. The courts and the board said, "There is a clear procedure in section 3 of the Planning Act to put forward policy statements and if, for whatever reason, the government chooses not to follow that procedure, we can't give the same weight to those guidelines as proper policy statements."

I don't think the solution lies in the "have regard for" or consistency test. The solution, as I said in my submission, lies in having appropriate and clear policy statements. I hope we were clear in our submission in suggesting that the legitimate objectives of land owners clearly should not take precedence over environmental concerns. That's never been the CIPREC position. We recognize the need for environmental policies to be a big part of the planning process.

Ms Churley: The difference is that you think they're in here and I don't.

Mr Baird: Some of my friends opposite are not against development. Some of their best friends are developers, we've learned during these committee hearings.

I appreciate your presentation today and note that you're in support of our streamlining initiatives, which is obviously the thrust of the legislation. Also, I'm pleased to note that you agree with our view that planning decisions should not be made at the expense of the environment. That's very much the issue, to balance those two concerns: a streamlined process and protecting the environment. That's something I know our government feels very strongly about.

With your experience with your 50 member companies, what sort of effect do you think this will have on the economy and on job creation in your industry?

Mr Braithwaite: In regard to the one about not being able to develop sensitive areas, that issue, or are you talking generally?

Mr Baird: The whole legislation as a package.

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Mr Braithwaite: It'll have a different effect at different times in the business cycle.

Mr Baird: What about at this time in the business cycle?

Mr Braithwaite: It will have some impact, but I don't know, in all honesty, that I would say it would have a big negative impact right at this time, because the cycle in terms of development—I'm speaking primarily from the commercial side of it now, not the residential side, because I'm not knowledgeable about the residential side. On the commercial side right now, the amount of development activity that's going on is down dramatically, and I don't think it's going to pick up very quickly, with or without these revisions, if you will. I'm not sure it's going to have a big impact in the short term. I think in the medium term it will have some impact, and the negative impact perhaps will outweigh even some of the positive impact in terms of a better sense of order and better clarity for the development community in terms of the rules it has to work with.

I don't know if that answers your question. It's hard to get a good handle on the impact today because of the prolonged recession or depression in our industry. The real estate section of the TSE in the last four years has dropped 90%, dropped more than the entire stock market dropped in the 1930s. It's been absolutely decimated. To overlay the question you've asked in that kind of environment—it's pretty tough to assess.

Mr Baird: Our view is that by maintaining that balance and making initiatives in terms of legislation and regulation, we'll do everything we can, however small and bit by bit, to create a climate where we'll see increased economic growth and job creation.

Mr Gerretsen: First of all, I admire your honesty. Sometimes we get the impression sitting here that everything we do here is going to have a huge impact on somebody immediately. It's the same thing with Bill 163. Let's be honest. I wasn't in favour of Bill 163 either, but to suggest that—

Interjections.

Mr Murdoch: But now you're in favour of it.

Mr Gerretsen: You didn't listen to me. I hope time is added on for me because of these disruptions.

Mr Murdoch: Either way, John. Go either way.

Mr Gerretsen: In all fairness to Bill 163, it hasn't been around long enough for anybody to really know how it was going to affect your business one way or the other.

From a practical viewpoint, from an administrative viewpoint, the time limits you're talking about in actually processing an application have very little to do with the time periods we're talking about, whether it's 163 or Bill 20. Wouldn't you agree that the time planning staffs and municipal councils and different ministry departments take to process an application is usually much, much longer than anything that's anticipated, from a practical viewpoint?

Mr Braithwaite: Yes, I would agree with that. That certainly was the environment we were in particularly in the 1980s when development was very prevalent and was happening everywhere. Many applications took a long time and in many cases—"many" is probably a little bit of an overstatement. Let me put it this way. In a number of cases, market opportunities were missed, major opportunities were missed, as a result of the planning process and so on. A good example that our company directly was involved in was a major redevelopment in downtown London. It didn't happen.

Mr Gerretsen: I can remember phoning the ministry offices three months after you'd filed an application to see what had happened to it, and somebody hadn't even opened up a file, in those days.

Would it not help your industry if some of the protocols between government departments and ministries were set out so that you, the general public and the municipalities would know exactly what is expected from you at which stage of the development? Would that not be a big help?

Mr Braithwaite: Oh, very much so, right up front in the process so you could monitor it and track it.

Mr Gerretsen: I totally agree with you, sir. That's where the real problem lays.

The Chair: Thank you, gentlemen, for taking the time to make a presentation before us here today.

Ms Churley: How do you like being kicked around like a political football?

Mr Braithwaite: I just wish I was closer to the action. It sounds like a lot of fun.

Mr Bisson: Just for the record, I want to tell you that it's not a lot of fun.

ONTARIO ASSOCIATION OF LANDSCAPE ARCHITECTS

The Chair: Our last presentation today is the Ontario Association of Landscape Architects. Good afternoon.

Mr James Floyd: Good afternoon. We wish to thank you for this opportunity to comment on Bill 20. Since we are the last group, we appreciate your patience.

I'm James Floyd, president of the Ontario Association of Landscape Architects, the OALA, and with me is Eha Naylor, a member and our representative on the technical advisory committee to the Ministry of Municipal Affairs and Housing. We here on behalf of the OALA, a self-regulatory body representing the province's 700 landscape architects.

The outcome of this committee's work and the enactment of the legislation will profoundly affect the course of land use and development in this province. It will have major implications for our economic and environmental health.

Most significant is the fact that the proposed changes represent an unprecedented shift in decision-making authority from the provincial level to the local community. This clearly raises questions as to how this will be accomplished and who will pay the cost of the planning resources to support local decision-making and the costs to protect natural heritage areas.

We are here because landscape architects are key stakeholders in the planning process. We are often leaders

or members of the multidisciplinary teams that design and plan development projects for both the private and public sectors.

Because of our multidisciplinary education and expertise we often integrate the work of other land use planners, engineers and architects with that of natural scientists, such as biologists, to bring about environmentally intelligent development proposals.

As you know, landscape architecture is the design profession concerned with the planning, management and stewardship of the land. We are in fact architects of the land whose goal is the best use of land resources.

I would like to briefly outline the professional credentials of landscape architects.

The qualifications to become a landscape architect are stringent. Landscape architects are required to complete a five-year university degree, two years of professional development and pass an internationally administered accreditation exam.

Landscape architects develop and promote economically and environmentally sustainable solutions which balance human needs with those of the environment. In other words, landscape architects plan and design development projects to be both cost-effective and have environmental protection as an integrated component of the plan.

We are here because we want to offer constructive criticism and practical advice. There is no question that an effective and efficient planning system should promote economic growth while protecting the environment.

This committee has heard much scepticism and direct opposition to the proposed legislation. Once implemented, Bill 20 will be carefully scrutinized by all who have an interest in the planning process. The first decisions made under the new policy will be seen as an acid test of whether the government has delivered on its promise to provide both economic growth and protection of the environment.

The broader public too will be looking for proof that the new planning system is encouraging long-term growth without sacrificing the vitality of the environment.

We know that public expectation is high. In recent decades, a strong environmental ethic has taken root in Ontario as it has around the world. While taxpayers and voters want fiscal responsibility, they also continue to set a high priority on the protection of ecological resources.

It is widely recognized that there is a link between a healthy economy and a healthy environment. It is also clear that the consequences of ignoring this relationship carry a high pricetag for future generations.

Our major concern with Bill 20 and its companion provincial policy statement is not so much with what they state but with what they do not. We are concerned that there are serious omissions or information gaps making it unclear as to how we will continue to protect the environment. There is no road map.

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A few years ago, the landscape architects found that we could not support the previous government's change in the wording of subsection 3(5) to "shall be consistent with," because the policies lacked clarity and scientific basis. We now find ourselves with similar concerns.

For example, the new provincial statement indicates that the province's economic and environmental health depend on efficient land use practices.

While the policy ingredients for long-term economic prosperity include such components as urban intensification, better use of infrastructure and public transit, they do not clearly recognize the role of a healthy environment.

There is mention of the need to coordinate watershed issues which span municipal boundaries to prevent adverse downstream impacts, but it is not clear how this coordination will be achieved.

As a profession dedicated to land stewardship, we are concerned that the provisions of this legislation and its policy statement are inadequate to protect the broad provincial interest regarding the environment.

We have a suggestion to amend section 1.1.3 of the policy statement which states that, "The essential ingredients for long-term economic prosperity will be provided by:"

We recommend that an additional point be added to page 3 of the policy statement. The wording we suggest is "conserving significant natural heritage features and biodiversity." This is a simple statement that describes what in our view is an essential ingredient for long-term economic prosperity.

The information gaps are even more worrisome when we look at how they will affect local communities. Bill 20 represents a dramatic expansion of local planning responsibility that has new and major implications for Ontario taxpayers.

The changes will mean that local communities will have far more say in how they want to see their area grow. But there is also an enormous potential for the system to disintegrate into costly and bitter site-by-site conflicts.

Local communities may also be about to confront another new reality of local autonomy. For the first time the question of who is going to pay to protect environmentally sensitive areas is going to be decided on at the local level.

The overhaul of the planning system coupled with the government's review of development charges could see local communities faced with the decision of whether land developers or taxpayers should pay to protect significant local natural features like wetlands, woodlots and other natural heritage.

If developers are going to be contributing less, taxpayers will have to determine what is important to them and whether it is worth keeping. Local residents will need the resources to make informed decisions about the significance of a particular natural feature in their community. The scientific research to make informed decisions is lacking in many municipalities.

Local planning authorities will now be expected to set environmentally sound land use policies in their official plans. Municipalities will also be encouraged to establish performance standards to monitor the implementation of these policies. Municipalities could find themselves scrambling without sufficient resources to provide defensible decisions.

They will need far more research and information than they have had in the past. It has been suggested that the province will provide support to local planning authorities to assist them, for example, in setting guidelines for significant natural heritage areas. But with provincial funding cuts this will be difficult.

There are solutions. In this area the landscape architects can offer assistance to help bridge some of these information gaps and to do our part to help make the planning system work. We, as a profession, have the training and expertise to fill some of the gaps.

For example, satellite technology is being used by landscape architects to help identify suitable areas for development and areas suitable for conservation. The OALA would like to work more closely with the province to expand the use of this technology as a more accurate and efficient way of making decisions on the significance of natural features.

We make this offer particularly in light of the fact that provincial ministries such as the Ministry of Natural Resources are under considerable financial restraint. It will be increasingly difficult for MNR, faced with its own financial limitations, to keep pace with its own needs as well as those of local municipalities.

Our association would like to work with the province and the Association of Municipalities of Ontario to provide advice to municipalities as they restructure to assume greater planning responsibility. We will be meeting with AMO to offer our assistance.

The minister has said that his goal is to streamline the planning system so that it will be clearer, more flexible and more workable. We believe that Bill 20 has provided a much higher degree of flexibility for the planning process. However, without a strong policy context and increased provincial support to local planning authorities, this flexibility will just increase uncertainty. If the province is going to delegate authority, it needs to provide a strong policy context with clear and direct wording which will help reduce conflict and help make the new system work.

Mr Ouellette: Thank you for your presentation. A couple of questions. I'd like a little more information about your organization. You said there are 700 members, or are there 700 individuals who perform this function in the province?

Mr Floyd: There are 700 individuals. Only individuals are members and each individual has a stamp. We were enacted by Bill Pr37, 1984, as a self-disciplinary—

Mr Ouellette: So it's mandatory that they're part of your organization?

Ms Eha Naylor: Yes, it is. To call yourself a landscape architect in Ontario you must be in this.

Mr Ouellette: Who do you think should make the decisions as to what actually is a natural heritage feature? I'll give you an example. In the early 1800s the Second Marsh in my community was a port. Now it is the Second Marsh, which I've spent some time protecting. Who do you believe should make those decisions? For example, should the Grand Trunk Railroad embankment be classified as a natural heritage now?

Ms Naylor: In our view, the decision about whether a feature is a natural heritage should be founded in science.

Those decisions need to be based on what are generally accepted scientific background data, so ecological function and the significance of natural features need to be understood from the scientific perspective. Then the decision on how those natural features should be utilized is something that should be addressed by the local planning authority with direction from the province. What we're suggesting is that the policy framework that's being provided is really helpful in guiding local municipalities. The problem is that the local decision-makers quite often don't have the science, don't have the knowledge necessary to make really good long-term, informed decisions.

Mr Ouellette: On page 6 you made mention of the fact that they don't have the information in order to make these decisions or are not used to getting information. Don't you think that potentially Bill 20 may be one of the initiatives that they'll have to start getting that information?

Ms Naylor: We believe that's absolutely necessary in order to make land use planning decisions that are defensible. We think that, yes, it's really necessary to undertake a study that provides the basis for future planning, particularly when it comes to the natural environment.

Mr Ouellette: Whereabouts are your members located? Are they mostly in the rural areas?

Ms Naylor: Our members are located throughout the province, and our members are, I think, fairly equally spread out between the public sector and the private sector. We have a number of members who work for the province, who work for local municipalities and who work for conservation authorities, those kinds of functions. We also have members who work for the development community, and a number of our members are private consultants. So we really span all sectors and all regions.

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Mr Gerretsen: I take it you feel that under the policy statements developed under Bill 163, there was really almost too much detail and too many policies that may conflict with one another and anybody could at the end almost take out of it what they wanted and the current policy statements are too loose and too general, that they really don't amount to anything. Would that be categorizing it correctly?

Ms Naylor: This legislation provides flexibility in that now the language is no longer "consistent" but rather "have regard for." So there is now flexibility that's been built in. However, when you look at the policies themselves, they're also very loose. It's fine to have flexibility in the legislation as long as the policies are clear.

We work with the natural features and we look at how to marry those features with development proposals, and we feel strongly that the natural environment and development are not mutually exclusive. They can be worked together.

However, a very clear policy context makes it much easier to work through the planning process. It takes out a great deal of uncertainty and it takes out a great deal of the potential conflict. Historically, conflicts have been resolved at the municipal board because the policy context hasn't been there. The stronger and the clearer the policy context, the easier it will be able to work through the planning framework.

Ms Churley: Thank you for your presentation. I think that you have hit the nail on the head in terms of concerns around environmental protection. You talk about that local communities now, you're quite correct, will have to do a lot more work and be more involved in defining environmentally sensitive areas.

So here we have a situation, with this bill coming through, the conservation budget's been cut; Bill 26 allows conservation authorities to sell off land; there's a 47% cut in transfer payments to municipalities; there are no clear policies which have to be adhered to by municipalities; there are massive layoffs coming in Natural Resources and Environment, plus massive deregulation. If you add all of that up, what you're going to end up with is municipalities in desperate situations that will be allowing bad—badly planned, environmentally unsound, cheap—development in, in some cases, environmentally sensitive areas. When you put it all together, that's what we're looking at here, and it's quite a devastating picture.

I presume that you have, even though you didn't have a lot of time to go into all of it today, looked at the overall impact of all of—plus development charges are going to be limited. I just wonder if you have a comment on that and how we can fix this bill to try to deal with some of these problems.

Mr Floyd: That's a tough one. We've looked at it in two ways. One of the ways is the process beyond the bill, and that is that, as I indicated, we are talking with AMO to identify which of the municipalities are most lacking in information. Under the definition of empowerment, to say that if you don't have the information you can't make the decision, we are trying to identify which municipalities have the biggest gaps. We are also talking with the Ministry of Natural Resources to identify its methodology for setting significant environments and taking that back to the universities of Toronto, Guelph and Ryerson and making sure that in the final year, each of the graduating landscape architects is prepared to go into those municipalities and assess the information in context.

The biggest problem that we've identified in the planning process, the way that it happens, is what Eha refers to as flat land planning, that nobody is actually walking through the land and looking at it. One area that has been stricken from 163 is the statement of ridges, views and vistas, and it's very interesting, because with that, it at least hangs a hat on what it is that you see. People can walk into a council and talk with pictures. They can talk about what is out there, as compared to just numbers and digits in that sense.

Do you want to add to that?

Ms Naylor: I do. I'll make two points. I think there are two things that can be done to assist in resolving some of the problems of that legislation. One is support for municipalities, and I realize there are limited resources and we'd have to juggle, but municipalities clearly need guidance and training and support from the province and that support not be diminished or cut. That's one issue.

The other issue is clear, simple language in the policy. If no is to mean no, say it. No should not mean because.

With respect to the softer issues of landscape, because they're very important to our profession, one of the

complaints we have, and James discussed it, is the issue of flat land planning. The development community for years has held that it's either environment or development. That's not the case and we feel there's education necessary on that front, that views and vistas not only make better places to live, they make more marketable and perhaps economically more viable projects for developers as well.

The Chair: With that, that concludes our presentation this afternoon. Thank you very much for taking the time to come down and speak to us today. That having been the last agenda item, this—oh, Ms Churley.

Ms Churley: You didn't really think we were going to end now, did you? I do have some questions to ask, Mr Chair. Last week, as you're aware, I asked for the parliamentary assistant to the Minister of Environment and Energy to provide a list of the stakeholders whom he said he met with—I believe it was last Monday afternoon—to talk, I now ascertain from listening to some people, about the policy guidelines. I wonder if he has tabled that list.

The Chair: The clerk indicates it has not been tabled.

Ms Churley: Could I ask the PA if he could respond to my question as to where the list is?

Mr Galt: The list is available and in the hands of the parliamentary assistant for MMAH.

Ms Churley: So it can be tabled with the committee?

Mr Galt: If you so desire, they're all set to go.

Ms Churley: And is this the list from the consultations of that day?

Mr Galt: All set to go.

Ms Churley: Great. Thank you very much.

Mr Galt: I'm so pleased you asked.

Mr Hardeman: Mr Chairman, I have here a list to table with the committee. It contains an extensive list of all the people who have been consulted with, all the groups and individuals, starting off first of all with the Ministry of Municipal Affairs and Housing and its consultation list on Bill 20 itself. There were 17 delegations in the list, one of which, incidentally, I just want to put on the record—there was some concern expressed by Ms Cooper, I believe it would be Thursday, from the Canadian Environmental Law Society, and she indicated that they had not met. In fact, on September 13, the Ontario Environment Network, of which the law association is a member, met with the minister and a number of other groups and they are on the list.

There is a list of 24 organizations that have been contacted for consultation in the process on the policy statements. One of those who has already met with the minister—I think it was indicated to us earlier in the hearings that the Federation of Ontario Naturalists had not been consulted. In fact, they have already met with the minister and the policy staff.

The Ministry of Agriculture, Food and Rural Affairs has notified or has met with 15 different stakeholders. The Ministry of Environment and Energy has had six. Again, I just want to point out there was consultation with the Conservation Council of Ontario. I think it was indicated by one of their representatives that we had not met with those. The Ministry of Natural Resources has a list of 29 groups and stakeholders that have either met with them on the policy statements or have been asked if

they would like to make representation, and the Ministry of Citizenship, Culture and Recreation has a list of 13 it has asked or already met with. The Ministry of Northern Development and Mines has a list of 14.

I'm prepared to table these, meetings that either have been held or are scheduled to be held or at least the organizations have been asked if they would like to participate and present their views.

Ms Churley: I appreciate that, both of you, for tabling those lists I asked for. Before we close here, in response to some of the names that you read off, Kathy Cooper in fact—I assume that we don't have a letter from her—informed me after the meeting—she was cut off because she had gone over time. Mr Chair, you weren't here at the time. The Vice-Chair was in the chair. She was in the midst of explaining, in her view, whom she was consulted with and whom she wasn't. It was clear after I talked to her that she was assuming, in response to my question, that I was talking about consultations with the Minister of Environment and Energy. I think, had we continued for a while, that would have become clear.

She did say to me after the fact that she does not view the meeting, which she clearly does not deny having, with the Minister of Municipal Affairs and Housing as consultation with the environmental network, that it was a kind of a get to know you, a general chat meeting, but she was not then invited into ongoing consultations specifically to talk about the bill.

I think that's what we have to try to clarify here: the difference between the one-time-only meeting and real consultation. I will be taking the list and talking to those on it to try and ascertain who feels comfortable in whether or not they were consulted as opposed to met with. But I did want to clarify the record for Ms Cooper in terms of her misunderstanding about which ministry I was talking about at that time.

Mr Hardeman: Just a comment, Mr Chairman. I appreciate the explanation and I'm sure I accept that, that she did not understand, when I was talking about a meeting with the minister, I was referring to the Minister of Municipal Affairs and Housing. I guess I just put it on the record to clarify the situation, recognizing that she immediately came forward and said no, the meeting that I had referred to had not taken place. I guess for the benefit of both Ms Cooper and myself, it's appropriate that it's on the record that the meeting I was referring to did in fact take place.

Ms Churley: Thank you very much for that. I have one other issue I'd like to turn to. I'm not going to make a motion about it today, because I understand, although I haven't checked with the clerk, that it's not in order until we get to clause-by-clause.

I would like to ascertain, and perhaps the parliamentary assistant can respond to this, whether the government

might be looking at coming forward with its intention, at least, to make an amendment around the minor variance issue. It's very, very clear that several people, pretty well everybody, agrees that's a problem. We have had some deputies come down to speak only and specifically about that issue. There seems to be general consensus that there is a problem with that particular clause, and I'm wondering, in the interests of perhaps saving time for some people over the next few days of hearings, if the government has an intention of amending that, we could let people be aware that that is going to happen and it might prevent some people from having to come down to speak to the committee about that issue, should they know that that's going to be amended.

Mr Hardeman: I think it's quite obvious that there have been very few presentations that did not see a need for some change in that area, and the government is listening to that. I think it's appropriate to hear from more, if not all, of the deputations. Not to say that it does not need changing or that the view of the participants will change, but I think there have been a number of times it's been brought up that there may be alternatives to going back to the way it was, to the OMB appeal, and we would like to hear more of that as time goes on.

Mr Baird: More views from outside Toronto.

Mr Hardeman: I think there will be some different viewpoints on that issue as we travel the rest of the province. The minor variance process in rural Ontario is slightly different from that in urban Ontario and we may hear some different views on that. But I could say that in all probability there will be some change in that.

If I could, just on the other topic again, Mr Chairman, I didn't mention this and I should have: The Ontario Environment Network has been asked to participate in the policy statements but has declined that invitation. At this point in time at least, they've decided they do not want to be part of the policy statement process.

Ms Churley: Mr Chair, I'm glad that's on the record as well. It's my understanding that, as Ms Cooper stated when she was here, they were not consulted properly in terms of input in the bill and that, in their view, with the fact that the "be consistent with" clause is taken out, they feel at this point the policy is almost moot. That's their view, that in terms of their position on this bill, it's a waste of time for them really to have input into the policy statement, and I entirely support their position on that. I just don't think at this point, given that they weren't included in writing the bill and the developers and the municipalities were, there's a real problem here.

The Chair: If there are no other comments, this meeting stands adjourned until 9 o'clock tomorrow morning, salon A, Ambassador Motor Hotel in Sudbury.

The committee adjourned at 1406.

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

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Vice-Chair / Vice-Président: Fisher, Barb (Bruce PC)

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Maves, Bart (Niagara Falls PC)

*Murdoch, Bill (Grey-Owen Sound PC)

*Ouellette, Jerry J. (Oshawa PC)

Tascona, Joseph (Simcoe Centre PC)

**In attendance / présents*

Substitutions present / Membres remplaçants présents:

Bisson, Gilles (Cochrane South / -Sud ND) for Mr Christopherson

Carr, Gary (Oakville South / -Sud PC) for Mr Maves

Galt, Doug (Northumberland PC) for Mr Tascona

Gerretsen, John (Kingston and The Islands / Kingston et Les Îles L) for Mr Duncan

Hardeman, Ernie (Oxford PC) for Mr Carroll

Smith, Bruce (Middlesex PC) for Mr Chudleigh

Clerk / Greffier: Arnott, Douglas

Staff / Personnel:

McLellan, Ray, research officer, Legislative Research Service

Murray, Paul, research officer, Legislative Research Service

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ISSN 1180-4378

Legislative Assembly of Ontario

First Session, 36th Parliament

Assemblée législative de l'Ontario

Première session, 36^e législature

Official Report of Debates (Hansard)

Tuesday 20 February 1996

Journal des débats (Hansard)

Mardi 20 février 1996



**Standing committee on
resources development**

**Comité permanent du
développement des ressources**

Land Use Planning
and Protection Act, 1995

Loi de 1995 sur la protection
et l'aménagement du territoire

Chair: Steve Gilchrist
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
RESOURCES DEVELOPMENT

Tuesday 20 February 1996

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DU
DÉVELOPPEMENT DES RESSOURCES

Mardi 20 février 1996

The committee met at 0858 in the Ambassador Motor Hotel, Sudbury.

LAND USE PLANNING
AND PROTECTION ACT, 1995LOI DE 1995 SUR LA PROTECTION
ET L'AMÉNAGEMENT DU TERRITOIRE

Consideration of Bill 20, An Act to promote economic growth and protect the environment by streamlining the land use planning and development system through amendments related to planning, development, municipal and heritage matters / *Projet de loi 20, Loi visant à promouvoir la croissance économique et à protéger l'environnement en rationalisant le système d'aménagement et de mise en valeur du territoire au moyen de modifications touchant des questions relatives à l'aménagement, la mise en valeur, les municipalités et le patrimoine.*

SUDBURY EAST
PROPERTY OWNERS' ASSOCIATION

The Chair (Mr Steve Gilchrist): Good morning, all. Let me call this meeting to order and thank all of those in attendance here today. It's certainly our intention to try and get around to as much of the province as we can to seek input on the proposed changes in Bill 20, and to that end we're pleased to be here in Sudbury. Our first presentation this morning will be the Sudbury East Property Owners' Association, Wanup-Estaire region, Dr Richard Jarvis. Good morning.

Dr Richard Jarvis: Mr Chairman, good morning. Excuse me. I'm so nervous, permit me to have a little glass of water to join you in a drink and a toast to this great area of Sudbury.

The Chair: Certainly. We'll join you in that. Cheers. Dr Jarvis, we have 30 minutes for you to use as you see fit, divided between presentation and question-and-answer time.

Dr Jarvis: Ladies and gentlemen, members of this panel, Mr Chairman, Mr Gilchrist, on behalf of the Sudbury East Property Owners, we wish to thank all of you for coming today and we hope your stay will be interesting and rewarding.

To begin, we would like to stress that we've seen many, many good changes in Bill 20, and for these we thank the planners who have been involved in them. But the rural property owners of, I stress, the unincorporated townships of Sudbury east have identified one major concern, and that is the fact that there is no mention of lot creations for the unincorporated townships on a random basis.

It's important to maybe digress here and just stress what our concerns are, because we have sent several

briefs to the honourable minister, Al Leach, we've sent letters, and we really haven't had any response from his office. The concern we have is that if land severances are discussed with the planners in Toronto, they will say to you: "Hey, all sorts of severances are allowed. Come on, what's the matter with these stupid people, these savages in northern Ontario?"

I would ask you to turn to, in your brief, near the end. You'll see a map with little black dots. The point we would like to make first of all, with the graph at top, is that in a 10-year period from 1980 to 1991, there were only 200 lot creations in the entire 1,000-square-kilometre tract of land. The planners in Toronto will say: "Look at that, 200 severances. That's great. I mean, look how generous we are." But if you look down at the little map below where it says number of consents, you will see that the major areas of consents are for the organized areas; the big one of course is Cosby, Mason, Martland and Scollard popped in there, because that is cottage country and that is where the majority of severances go.

You also see a big dot around Ratter, that's halfway up on the right. That is the village of Warren. They have been allowed severances. Then you have Casimir, which is also another organized area and has cottage country.

But if you look elsewhere, very few severances or lot creations have been permitted. I am personally from Cleland, and if you look at Cleland, which abuts the region of Sudbury, you will notice that in 10 years we've had something in the order of 50 severances; that's five per year.

We feel, "Hey, isn't that a reasonable severance policy?" Yet we are told by our planners in Toronto: "You are a great financial burden on the province. You savages from the north, who live in the country, are draining the provincial coffers, so it is up to us as planners to see this does not happen."

We entreat you to recognize that this is clearly false. In a personal communication with Dr Pamela Blais, the economist for the Golden commission, she disagrees with this belief as it relates to rural development. She states that there are no studies in Canada or the USA to justify this belief or assertion, Mr Murdoch.

The rural capital costs will be lower for the rural people because we, as individual owners in the country, bear the cost of sewage disposal, we bear the cost of water, we pay full equitable mill rate taxes for schools, education, and the province only grants \$106 to the road boards per person for roads, so we are not a drain even on the road system.

Obviously, the unincorporated rural citizens are not the financial burden they are accused of being by the policy-makers. We charge that the succession of ministers of

Municipal Affairs have been misled over the years by the policymakers in the south about this issue.

I draw your attention to a document called A Strategic Community Plan at the back. There is no number; I'm sorry. We had computer glitches and all kinds of glitches. This is a document prepared for the Sudbury East Economic Development Corp. It points out very clearly—these are directly from the document, by the way—that there is a declining population, a great concern in our area, because of the negative impact the restrictive policies proposed by our planners in the south are causing on our community.

Our schools are only half-utilized. The planners in the south say: "That's great. That's a good reason we should close them all and send everybody by bus to Sudbury." We say, "But busing is expensive," and they say: "Yup, that's just what we said. You people are a drain on this province." That ain't true.

The economy—the other day I spoke to a fellow at a large lumberyard and hardware store in the area. He said, "We're really facing hard times, because people just can't build houses. There's no room. They can't get severance. Dozens of people have tried and they simply are not allowed. They're closing this area down."

I hope I've made the point, the main point we wanted to make. I'll skip back to the start and just complete the recommendations.

We entreat this government to consider land use planning to be guided by public pricing policy. What we're saying here is that if we are unreasonably costly in any area to the province, let us bear this cost in the form of taxation or user fees instead of oppressing us with restrictive policies. We're willing to pay our way, and I'm sure Mr Harris—it fits into his program and the program of our government to save money and to be self-sufficient and not a lien on the government.

0910

We recommend that our planning board be increased from three to six members. If you turn to the back, there is a document called Excerpts from a Presentation Given to the Sudbury East Planning Board, given by three planning board members just before the official plan was passed. If you peruse this, you will see that they recommend there be greater input, more members, and also that the planning board be independent from the incorporated townships. Here's what's happening: We have an official plan, and that official plan says in essence that growth and development will be directed towards the municipalities, and obviously the municipalities are really happy about this. They're on the planning board and form the majority, so obviously they're going to vote in favour of their own interests. We need autonomy.

We ask that Bill 20 be amended to allow abutting lots, under the same ownership, to be registered once again as individual lots. There is no justification for the policy that exists, and this has been a source of anger for many years in this area and I believe throughout Ontario.

We ask that the provincial government, independent—and this is important—independent of the Ministry of Municipal Affairs, conduct an economic study to evaluate the actual costs of rural development in northern Ontario. It is this continued belief of the ministry planners in Toronto that we are an economic burden. We want to

prove we're not, so we can get on with more important things.

We ask that the Minister of Municipal Affairs and Housing, or Mr Hardeman, meet with the Sudbury East Property—

Mr Ernie Hardeman (Oxford): Thank you.

Dr Jarvis: Well, I've got to stroke you a little bit.

Mr John Gerretsen (Kingston and The Islands): You're better off meeting with Mr Hardeman, anyway.

Dr Jarvis: That's great. Mr Hardeman is probably a rural member.

Mr Gerretsen: He knows what's going on.

Dr Jarvis: Great. Well, we'd like to meet with him to discuss this brief in greater detail and we would like this group to give consideration to developing a bill of rights for Ontario so that it prevents further encroachment on property rights by the policymakers in the south.

In the back you'll find a letter from our august leader—

Interjection: August leader?

Dr Jarvis: September leader, whatever—Mr Harris, who agrees, and says that maybe it is about time that we consider such a move.

On behalf of my association, I am most grateful for your time this morning. If you have any questions you have exactly—how much time?

The Chair: I have just under 17 minutes.

Dr Jarvis: So you've got 15 minutes for questions.

The Chair: Just over five minutes per caucus, and the questioning will start with the official opposition this round.

Mr Gerretsen: You talk about a bill of rights. Do I assume you want property owners to basically be able to do with the property what they want, including putting in an accessory unit or a basement apartment or an extra unit for in-laws?

Dr Jarvis: First of all, what should be addressed is the fact that when you "buy"—I use that word lightly—a piece of property you really buy a lease for life, for eternity. You never really own the land. This has given the planners in Toronto more power, we feel, than they are entitled to in terms of, for example, severance, which I talked about.

If you look at it very carefully and if you read my brief over—there isn't time to go into it—we have set down certain parameters. We definitely want care of the environment. We definitely want ground rules in building structures, in quality of homes, in safety with fire and so forth. We've set those down; those are basic to us. We don't have any argument with that. But we object strenuously when policymakers make rules that have no justification and that are based on falsehoods.

Mr Gerretsen: But my question was that currently every single-family property owner has the right to build an extra unit within their residential premises, a basement apartment, okay? Now this bill's going to take this away. Do you agree with that?

Dr Jarvis: Do I agree with that? Yes, I do. I agree with it wholeheartedly, as long as certain parameters are maintained and cared for, yes.

Mr Gerretsen: So you agree that people should not be allowed to build basement apartments then?

Dr Jarvis: No, I agree that people should be allowed.

Mr Gerretsen: Should be, okay.

Dr Jarvis: I'm sorry, I'm old and stupid.

Mr Gerretsen: I'm from the south or from the east—I'm from the east, not from the south. Explain to me what happens from a practical viewpoint when an organized municipality wants to take over an unincorporated township. Are we talking about an amalgamation here?

Dr Jarvis: In our recommendations we have made the point that we would ask that this not be allowed.

Mr Gerretsen: I see.

Dr Jarvis: Principally because we believe that some plans are already being made by our planners in the south to merge four townships, of which my township is one, with the region of Sudbury.

Mr Gerretsen: I see. Do I understand it correctly then, and pardon my ignorance in this, that for every severance that is applied for in an unorganized territory or an unorganized township, basically the planning staff within the ministry in Toronto makes the decision on those things?

Dr Jarvis: Up until February 1 of this year, the planning board was what we termed a punching bag. They gave their recommendations either for or against approval, but the ministry, if they didn't like it, simply overruled our planning board and that was the end of it.

Mr Gerretsen: Your planning board currently is made up of three members?

Dr Jarvis: No, three members from the unincorporated and six from the incorporated merge into one.

Mr Gerretsen: All right, okay. So that's why you're always outvoted on these issues and you feel there should be equal representation on that board.

Dr Jarvis: I did not specifically say we are outvoted. I feel that initially we were outvoted in the initial development of the official plan. Subsequently, I would say no. We've got a very fine board and we have great respect for all members. I don't want to infer that there's any disregard for our planning board.

Mr Gilles Bisson (Cochrane South): I am from about 270 miles north of here, a place called Timmins, you might have heard of.

Dr Jarvis: Oh, yes.

Mr Bisson: So I well understand what you're talking about. What I'm having a bit of difficulty following in the brief is that my understanding in working with property owners up in the Timmins area, basically people who own family farms that are no longer productive is what we're talking about in my area, is that the problem of not being able to sever off a piece of land is not so much a function of the planning board or the official plan, but more a function of the policy of the Ministry of Agriculture, that you can only sever a piece of agricultural land so many times. Isn't that really what your problem is?

Dr Jarvis: No, we have no problem with the Ministry of Agriculture because principally in this area we have no agriculture per se. You're in a unique position, that up north Mother Nature left you vast tracts of very rich land. In this area, it's rocks, rivers, swamps.

Mr Bisson: So you're not talking about agricultural land here.

Dr Jarvis: No, sir.

Mr Bisson: Okay, I thought that you were talking about was agricultural land and that's why I was having a bit of trouble following.

Dr Jarvis: No, agriculture doesn't even come into it as far as where we—

Mr Bisson: But you're talking about severing off land. That implies that people have a large piece of land they've owned for some time that they want to sever off and sell to either their family, friends or neighbours. How big are these tracts of land? What are they? Are they just estates, or what?

Dr Jarvis: We've come up with figures which were unacceptable to the planners in the south. We've come up with figures like acreages of 25 acres, 50 acres. One of our members has 350 acres.

0920

Mr Bisson: What was that used for, that 350 acres?

Dr Jarvis: It is just lovely land. There is no lumbering on it, there is no agriculture and they want to sever off three lots for their children.

Mr Bisson: So it was 350 acres that was purchased some time ago—

Dr Jarvis: Twenty years ago, sir.

Mr Bisson:—just as a piece of residential property; it had no other use.

Dr Jarvis: That is correct. But they purchased it because they had three young children at the time. The children now, 20 years later, are grown up and they want to move on to the farm.

Mr Bisson: Just so that I follow, because your problem here is very different from the one we're experiencing up in Timmins, what you're telling me is that the Ministry of Municipal Affairs won't allow that 350-acre lot to be severed at all—once, twice. In agricultural land, I can sever off a chunk—I think it's once or twice in the lifetime of myself—and pass it on to my family or sell it or do whatever. Is it the same kind of problem you're having?

Dr Jarvis: You see, we're under what is known as growth and settlement policy, which evolved from the John Sewell commission. You will see if you look at the back—

Mr Bill Murdoch (Grey-Owen Sound): Yes, dear friend.

Dr Jarvis: Yes, my dear friend John Sewell. If you look at the back, John Sewell, the growth and settlement policy, New Planning for Ontario. There it is. There are the points that are hurting us.

Mr Bisson: But you haven't been able to sever this land for years, by the sound of it. It's not just a function of Sewell or Bill 163. I'm trying to figure out, because the problem here is different, but what you're saying is this has been a long-standing problem that no government has addressed up to this point. That's what you started off saying at the beginning. It implies that there's been a problem for some time.

Dr Jarvis: Once the Sewell report—actually, before, I believe, in their draft stage, the planners in the south immediately imposed policy restrictions.

Mr Bisson: I understand that part of it. What I'm getting at is, prior to Bill 163, were you able to sever off that—the guy who had the 165-acre piece of land, could he sever it off prior to Bill 163?

Dr Jarvis: Prior to 1992, yes.

Mr Bisson: He could have severed it. So it was a function of Bill 163 that—

Dr Jarvis: Well, no, it was Sewell. Bill 163 came in just last year, 1995.

Mr Bisson: The other thing you talked about—I think I need a little bit of explanation—was you want less reliance on government as an individual and as an organization, but you're talking about increasing your representation on the planning board from three to six. That sounds like more government, not less, to me. I wonder if you can explain that.

Dr Jarvis: If you look at the planning board members, they're not paid. They're volunteers and they're local, as opposed to more interference by ministry personnel.

Mr Bisson: But the point I'm getting at here is that if you've got a municipality that makes up 90%, 95% of the total population of the area, to give the outlying areas an equal number of say, don't you see some sort of problem there in regard to and towards the representation?

Dr Jarvis: I think you have to understand that what we're asking for is representation of the people. Right now, eight or nine unincorporated townships are represented by one person, for example. Another person on the board really has interests in the French River community even though this person represents the unincorporated townships. We're saying that we're not getting representation of the other townships. If you look at the map at the front—

Mr Bisson: Yes, I was looking at that.

Dr Jarvis: For example, I don't know whether you can see, but if you look around, there's Markstay, there's Hagar. In that area there, there really isn't somebody representing us.

Mr Bisson: So there's nobody representing that area. Do I have time for one last note?

Mr Hardeman: Thank you for your presentation. I recognize the problem that exists in the unorganized territories as it relates to planning and having Queen's Park being the planning authority for the area, but I just want to make sure we clarify that the policy statements as they relate to Bill 20 are in fact going in the direction of giving more opportunities in the unorganized territories than were previously available in the policy statements for Bill 163. You realize that.

Dr Jarvis: That's where I'm concerned, sir, because if you read very carefully, what happens is that, yes, for the unincorporated there is, "You can sever." You can. You can sever if you want to live in strip-mall type of development; if you want to live in a little settlement area, you can; if you want to go into the municipalities and live in the village of, say, Warren, you can, no problem. What we want also to balance out this is to be able to live and have severance, lot creations, on an irregular basis throughout the land. We don't want to be packed into strip-mall type of development.

I'm sorry; I get emotional.

Mr Hardeman: Just to make sure I've got it clear, you're not suggesting this is being more restrictive than the former policy statements. You're suggesting we should go much further than we're going.

Dr Jarvis: Just a tad. Just recognize the unincorporated townships. Listen, let's look at the perspective.

We're talking no more than 20 severances a year. The planners in the south will have you believe that the whole region of Sudbury is going to rush out to Wanup to live. That's not the truth. We are losing. We've got a population decline.

Interjection.

Dr Jarvis: Yes, that's right.

Mr Murdoch: Thank you for your brief. I certainly appreciate that. I don't know if you know, but in my position as parliamentary assistant for Northern Development and Mines I've been travelling in the north, and this is a problem all over in the unorganized or unincorporated townships. I'm surprised my friend from Timmins doesn't understand that when talking about farm severances. But yes, this has to be incorporated, this has been all over, and I agree 100% with you about what the planners say in Toronto; they've been doing it to rural Ontario for years.

Dr Jarvis: Thank you, sir.

Mr Murdoch: Unless they change, and that's our job, to change their minds, and if we don't we'll have to do something else, maybe hit them over the head with a two by four, because they certainly need that. I agree 100% with what you're saying.

All over northern Ontario we've had this problem. I was in Dryden and that area last week, same problem: "Oh no, you can't develop out there, you'll be a burden on somebody in Toronto, sitting down in Scarborough or somewhere." We've really had this problem, and I won't blame only the last government; it has built up over the last 10 years and maybe even before that. But Sewell did screw up everything. He didn't understand. He'd never been out of Toronto in his life. They gave him a bicycle and told him to head north and he ended up in Sudbury one day and he said, "Cool."

I'll tell you, that was a real disaster in the planning area and we've been living with it ever since and we have to change it. That's one thing we're going to have to change, our policies for the unorganized or unincorporated municipalities in northern Ontario, because they're having a hell of a time. I agree with you 100%.

Dr Jarvis: I really appreciate that.

Mr Doug Galt (Northumberland): Thank you for the presentation and recognizing maybe we should have gone a little further with Bill 20 rather than the opposition saying no, it's all wrong.

I was interested in and compliment you on your supply-demand type of balance that you're suggesting looking at. I would like you to expand maybe a little more on the concern about the cost of development in the north, the concern in the south about the cost of development in the north. This is a new twist. Sitting in Toronto for five days of hearings, this certainly never came forward. It's one of the reasons we're on the road. Could you give me just a little more feeling as to what's going on there, what you think should happen or how a study should be carried out.

Dr Jarvis: In my estimation, from talking to Pamela Blais, a relatively inexpensive study would mean maybe \$30,000 just to merely show that development in the unincorporated townships is in fact a bonus to the province. I contacted, for example, the Ontario Provincial Police,

and the cost per person to police our areas is much lower, principally because there is very little crime in our area and their job mainly is patrolling the provincial highways and accident investigation and traffic control.

We've talked to our roads boards. We've done assessments. The government only gives us \$160 per person for our roads, but if you talk to the ministry personnel, they throw out all kinds of figures. They say: "Well, my God, you guys are demanding that these roads are paved. What happens if two more families come on your road? Well, we might need another school bus." All kinds of blue-sky bad omens that we're saddled with.

All we're saying, Dr Galt, is, hey, we'll pay our way. If that's the problem to give us democracy, we'll pay our way; no problem.

Mr Galt: You don't need a study. Just listen to the people from the north and it'll be quite all right.

Dr Jarvis: Well, the figures are there for common sense.

Mr Galt: Similar to rural Ontario, a lot of comparisons.

Dr Jarvis: Yes.

The Chair: With that, our time is up. I appreciate your taking the time to make a presentation before us, Dr Jarvis.

0930

TOWNSHIP OF RATTER AND DUNNET

The Chair: Our next presentation will be from the corporation of the township of Ratter and Dunnet. Good morning.

Mr Alex Dure: Good morning, honourable Chairman, ladies and gentlemen. This morning I would like to discuss with you our main concerns with respect to Bill 20 and its intended provincial policy statement.

I'm representing the township of Ratter and Dunnet, which is a small municipality of approximately 1,250 people located about 65 kilometres east of Sudbury on Highway 17. The community is comprised of two village areas, Warren and Hagar, as well as rural sections in each of Ratter and Dunnet townships. We do not have any major industries, like most small, rural northern municipalities; therefore we must rely heavily on our residential assessment base to provide the resources needed to remain self-sufficient.

Our main concern involves the provincial infilling and minimum distance separate policies. The following will highlight our position:

(1) Rural areas have historically been perceived as the country, which is the opposite of urban living. The privacy and distance are what attract people to rural areas. The provincial policies make it extremely difficult for our small communities to offer and provide this way of life.

(2) It is our belief that the infilling policy will create new settlement areas, which is not what the rural areas were intended for. Such settlement areas will ultimately begin requesting services such as sewer and water and so forth, and the other urban services that the municipalities simply cannot afford.

(3) We also believe that by keeping rural development to settlement areas, we leave the property owners with the

potential of contamination from a neighbour's septic system. If such properties were more separate and a septic system were to leak, then the leakage is more likely to remain on their own property rather than contaminate anyone else's.

(4) The definition of residential infilling means the creation of a residential lot between two existing non-farm residences which are on separated lots of a similar size and which are situated on the same side of the road and are not more than 100 metres apart. Why does a new lot have to be on the same side of the road as the other developed lots? The plow plows both sides of the road, the school buses pass by both sides of the road, and even rural route mail travels up both sides of the road.

The second part of this policy relates to the maximum distance between two lots. Let's take, for example, a road which is 1,000 metres in length and has four lots within the first 500, and one lot at the end of the road, 500 metres away. According to this policy, no new residential lots can be created after the first 500 metres because there would be another 500 metres to the last lot on the road. The municipality plows this road and a school bus travels the entire road to transport children to school. If such services are already being provided, how can you deny another lot for residential construction?

(5) Such policies have and will continue to restrict growth in our community. Our village areas, where development is permitted and encouraged, are landlocked by land that is privately owned and not readily available for development at an affordable price. Even if it was, we have had no interest for the urban development. Rather, the interest lies in the rural and country setting. We have many retired farmers and property owners who wish to sever and transfer a portion of their lots to their children. We cannot provide these people with such an opportunity and we cannot increase our assessment base because the policies restrict the very development that would provide the increase.

Our other concern involves the housing policy that provides for facilitating residential redevelopment in parts of built-up areas that have sufficient existing or planned infrastructure. We are concerned, again, with the restriction of growth, as the only area that has sufficient existing infrastructure is our village area. We have no planned infrastructure, as there are no financial resources available to provide such services. I ask then, where is the room for our municipality to grow? How do we increase our assessment base or financial situation with such restrictions and policies?

With regard to Bill 20 itself, we applaud the changing of "be consistent with" to "have regard to." We hope that this will solve some of the problems that we have been experiencing since the adoption of the infamous Bill 163.

We have noticed that the township of Pelee has received consent granting authority under section 28 of the bill. We strongly believe that consent-granting authority should be handled by a local level, especially here in the north, as it is not a provincial matter. How can a bureaucrat in Toronto be more knowledgeable about the needs and decisions of the north? The province's new overall policy has been to transfer its many responsibilities to those who really should be handling them. We hope that

consent-granting authority will become one of them. We are in fact hoping to receive such authority in the near future.

The people in the north like the quiet, rural country living. We do not want to become cities, as we do not want to live like those in the south. However, we do need a larger assessment base to maintain the minimal services we currently provide, especially now since the provincial government has reduced or eliminated various grant programs. We feel that the aforementioned policies are too restrictive and prohibit growth in the north. How can the north boost its economy with such restrictions? It is time to treat the north as the north and not as the south. We have different interests and different lifestyles. We urge you to either change provincial policies or let us develop our own policies that will allow us to maintain these lifestyles.

On behalf of the township of Ratter and Dunnet, I would like to thank you for taking the time to hear our concerns.

The Chair: Thank you. You've left us approximately seven minutes per caucus for questioning. The questioning this time will commence with the third party.

Mr David Christopherson (Hamilton Centre): Thank you for your presentation. I'm from the south so I'm listening as intently as possible to details of your concerns because I don't have a natural understanding of it in terms of my own personal experience. But I'm a little confused, and maybe you can help me, with regard to the position that you do not want the policy decisions to be made in the south in the ministries, in the government, in Queen's Park because, if I'm understanding correctly, your feeling is they don't truly understand what your needs are and you've got someone who is foreign to your way of living making decisions that affect your lives. Then you also make the point that you don't have any planned infrastructure, for good reason: You don't have the money. But you don't have any planned infrastructure and you point that out as a weakness, and I find that somewhat contradictory. Can you help me?

0940

Mr Dure: There's no planned infrastructure in the village of Warren at this particular time. We have lots that could be sold. We have sewer and water in Warren. But people don't want to move from, say, Sudbury or Sturgeon Falls or North Bay to Warren to another small lot. What people are asking for is some acreage so they can have a horse or something. This is not prime agricultural land I'm talking about; it's rock and hummock and brush and so forth. You could put a nice house on it and live there and have some acreage.

Mr Christopherson: Okay. I guess my question, though, is, if part of your concern is that you don't have planned infrastructure up here because you don't have the financial resources, which I fully understand—

Mr Dure: No, no.

Mr Christopherson: No, that's wrong? Or no, you don't?

Mr Dure: No, we don't have any planned—you mean for the outlying areas?

Mr Christopherson: I'm just reading from your brief. It says, "We have no planned infrastructure, as there are

no financial resources available to provide for such services." That's fine, because then you go on to say, "I ask, then, where is there room for our municipality to grow?" I derive from this that you think there needs to be some kind of planned infrastructure. I guess I'm questioning, if it's not happening here because you don't have the resources, yet you feel that is an effective tool you need, and it doesn't get done at Queen's Park because you don't want someone who doesn't live up here making those decisions, how does it happen?

Mr Dure: We've got to have Queen's Park, there's no doubt about that, but we would like to have input anyway to these decisions. We were whacked with a lot of restrictions all of a sudden in the last few years: You can't sever your lots, you can't do this. It's a very negative idea, the whole thing. Before, we were able to sever lots, you could build houses. Several have been built, and people are very happy there. Then all of a sudden we could do this no more. They brought in the Sudbury east planning board and from then on it was no, no, no, no. We hardly got any consents at all. Last year, I guess there was one or two, that's about all, the whole year.

Mr Bisson: I'd like to follow up on what my colleague Mr Christopherson talked about. In your brief, your other concern "involves the housing policy that provides for facilitating residential redevelopment in parts of built-up areas that have sufficient existing or planned infrastructure." Are you suggesting that housing density should be encouraged to be built where you don't have planned infrastructure?

Mr Dure: This is where we're looking. With the present in-filling policy, if you have a house here and a house there and 100 metres in between, you can put one.

Mr Bisson: No, I'm going off your brief here. There is a policy in the province that basically says that if a municipality is going to allow residential development of one type or another, apartments or whatever it is, you do that within an area that is serviced by water and sewer or an area that will be serviced by water and sewer. I take it that what you're saying here is that this should be discouraged. I see that it could cost us a lot of money in the long run.

Mr Dure: We're not going to discourage it. But we've got lots of water, and everybody could have their wells.

Mr Bisson: Oh, okay.

Mr Dure: If you put them close together, the wells are liable to get contaminated and this and that. If they're far apart, there's no danger of that.

Mr Bisson: So you're talking about country living.

Mr Dure: Country living only.

Mr Bisson: You're not talking about developments of housing around built-up areas?

Mr Dure: No. No, not at all.

Mr Bisson: In regard to the change of policy itself, where the government is now going to you have to "have regard for" provincial policy versus what we had put in place, which is a consistency provision, I have a bit of a concern. I can understand why the government is doing it. I don't agree with it, but I understand their logic. They want to allow more autonomy at the local level in order to allow planning to happen. We understand what they're trying to do there.

But isn't there a danger? For an example, I've worked with a lot of developments up in the Timmins area, where developers have wanted to invest money somewhere in northern Ontario, they don't know where initially, so they go around shopping. If you allow municipalities to change the requirements according to what's happening within the local economy, aren't you sort of encouraging a ratcheting down of standards that would be set in regard to what makes good planning and what makes good construction, so one municipality would be sort of competing against the other by lowering its standards or lowering its requirements? Isn't there a danger in that?

Mr Dure: I don't look at it that way at all. We have the building code to go by. The people will have to put up nice buildings and everything.

Mr Bisson: Building codes are not so much the issue; the issue is the provincial policy. For example, there are policies around woodlots, where one developer may say, "Well, I have \$1 million that I want to invest between Timmins, Sudbury and North Bay." They find a piece of land, let's say, around Sudbury that's a woodlot, but provincial policy might not allow them to do the kind of development they want, and the municipality would have the ability to say, "We just have to have regard for this policy, we don't have to be consistent with it, and we'll do something a little bit different to make it work," to where you would be forcing municipalities to lower their standards in order to attract the investment.

Isn't there a danger in that some of the areas that we are concerned about as northerners—as you are, I'm concerned about making sure that the environment we've inherited up here is still there for our children and our grandchildren. Are you worried that could be put in danger?

Mr Dure: I don't see very much danger of it right at the present time. Maybe over a number of years it could be, I don't know, but at the present time I can't see it.

Mr Bruce Smith (Middlesex): Thank you for your presentation. I just want to pick up on a point that my colleague had raised, and that's with respect to the government changes from "consistent with" to "have regard to." I think over the last week we've heard a number of groups argue that we've tipped the balance in favour of development and at the expense of the environment. You've adequately argued that you're supportive of that change, based on the ability to have increased flexibility in your decision-making, and I think that's very positive.

In your brief, you alluded to some other concerns that you had with the "infamous Bill 163," to use your words. Perhaps you could share with the committee the types of challenges that you faced with respect to that legislation and how you see the changes in the bill moving us away from those encumbrances.

Mr Dure: We have had a number of people wanting severances. They had quite a bit of land, say 360 acres or something like that. They wanted to leave it to their children or grandchildren or somebody, give each a lot. We couldn't sever that for them. I believe this bill should allow that. If it does, that's a great boost for us.

Mr Smith: I think, certainly from the last presenter as well, what you're saying is you're looking for the ability

to make some decisions in the consent process. Interestingly enough, you're arguing against the consolidated growth pattern to some extent. I think you want some flexibility there, not to be confined.

Mr Dure: That's right.

Mr Smith: I think that's really what we're trying to achieve with the bill. In your view, how do we address or bridge the problem? We're seeing distinctions between north-and-south, Toronto-Sudbury types of solutions. Where do we find the solution to that problem?

Mr Dure: That's kind of a difficult question. Down in that area, it's built up all over and there are many, many people; here we're very sparsely populated, and when somebody wants to do something, we've got to let them do something or we've got nothing; whereas down there, if they don't do it, it doesn't matter, really, there are so many more. But here we're very thinly spread out, and when someone wants to do something, if it's within reason, I don't see why he shouldn't be able to do it.

Mr Hardeman: I'd just like to go to the issue of your infilling problem. I think it does relate somewhat to the difference between northern Ontario and southern Ontario. As I read the policy, in southern Ontario, where we do not encourage strip development and developing along all the roads, this discourages that and says that you cannot develop a lot unless it is between two existing lots. The people in southern Ontario generally would tend to believe that's an asset, that that's one place they can get a severance, where they may not be able to get it on other occasions. We come to northern Ontario, and the first thing we hear is that this is perceived to be a detriment, not an asset, that that's where they would have to build.

One of the concerns, and I think you dealt with it somewhat in your brief, deals with servicing the development that exists or future development. Do you not see even in northern Ontario a problem, if you do not put some kind of control on strip development, that the day may come when you have large strip developments that do require servicing and it becomes financially impossible to service that area because you've allowed or have done the development along the road, as opposed to a confined area? Do you not see that as a problem for our future generations?

0950

Mr Dure: Oh, not for a long, long time, because the lots we would like to see would be lots maybe of 80 acres or something like that, not close by. If you have the infilling policy, then you could run into a big problem like that. But if they're not neck and neck like many places in the south, we've got good water and lots of it, and I don't see any danger of that for a long time.

Mr Hardeman: You perceive the policy statement to say that the infilling is the only development that would be taking place in your municipality?

Mr Dure: Right at the present time, pretty close.

Mr Hardeman: I would suggest that the intent is not to limit development to infilling. Infilling is based on encouraging full use of the land as opposed to leaving blocks between the two.

So I think there are opportunities beyond that in the other policies that would allow other types of develop-

ment that wouldn't be restricted to strictly infilling development. Obviously, when a municipality has a house or a structure on both sides of a municipality, everything in between becomes infilling at one time or another.

Mr Dure: Oh yes, at one time or another.

Mr Hardeman: I would encourage you to look at that, and I think there is room for further development other than just infilling within the policy.

Mr Dure: Yes, there would be. Sure. Whatever comes, we need it.

Mr Hardeman: And we want to help you get it.

Mr Gerretsen: Just to follow up on that for a second, you're saying there's so much land out here that if somebody wants to build on an 80-acre lot, they should be allowed to, and if somebody wants to live in one of the little villages on an infilling lot, they should be allowed to as well.

Mr Dure: Sure.

Mr Gerretsen: And the province shouldn't direct it either one way or the other.

Mr Dure: That's right.

Mr Gerretsen: And so far, they've been directing it towards the infilling side, which is what people don't want because they don't want to live on small lots, because if they did, they'd live in Sudbury.

Mr Dure: Exactly.

Mr Jean-Marc Lalonde (Prescott and Russell): Does your township have its own planning board or official plan?

Mr Dure: It did; we have our own official plan. We were under the planning board and we opted out of the planning board the first of the year.

Mr Lalonde: I'm surprised to hear that when you talk of infilling lots, construction is allowed on one side of the street and it's not allowed on the other side. I could see your comments here that are justifiable, that buses, school buses are going on that same road, the snow plowing is done at the same time. But I don't know; like my colleague John Gerretsen just said, if you cannot sever a piece of land of 80 acres, I'm really surprised. It must be quite different from the south or the eastern part of Ontario.

One thing I notice, though, is that it doesn't always pay a municipality to have a lot of residential settlement within the municipality, because if you don't have the commercial-industrial base, every time you build a house it adds your expenses to the municipality; recreation, everything adds up together at the end. But sometimes infilling lots for your family and all those relatives is something that should be considered.

I'm surprised to see that it is the province that controls the severance in this area. I thought the whole thing was done by a local planning board according to the official plan that is prepared for your corporation or your municipality.

Mr Dure: We have our own official plan, and our own official plan isn't bad.

Mr Lalonde: The government always comes up with some guidelines, but it is left to the planner, whom the municipality hires, to prepare the official plan to meet the requirements of your municipality.

Mr Dure: We've had problems.

Mr Lalonde: Not here. It is controlled by the province.

Mr Pat Hoy (Essex-Kent): I have a very brief question here. You mention septic tanks and the possibility of leakage. Is that a common occurrence in this area?

Mr Dure: Once in a while it will happen and it may have to be maintained. People have to maintain their septic tanks, yes.

Mr Hoy: I'm not familiar with the amount of topsoil in the township you're talking about, but how much would you have there? Adequate, or are we talking about very shallow amounts of topsoil?

Mr Dure: It's got to be adequate or they're not allowed to put a septic system on it. The Ministry of Health looks after that.

Mr Hoy: They would look into it. Are these septic tanks known as raised-bed septic tanks, or do you know what they call them?

Mr Dure: Raised beds.

Mr Hoy: Are they above ground or below ground?

Mr Dure: All below ground. The tank itself is below, everything is below ground. The tile field and everything is below ground.

Mr Hoy: In my riding we have a problem with septic tanks ongoing, and I've been talking to the minister to try and make some changes to help them out. The septic tanks in my area either leak, don't work or freeze. I wanted to ask you about this as well, because certainly the minister will be looking at a provincial aspect, no doubt. I thank you for your comments.

Mr Gerretsen: Do any of these planners from Toronto ever come down into your township?

Mr John R. Baird (Nepean): Come up.

Mr Gerretsen: Come up, come up, yes. Do they ever come up and take a look around to know what they're talking about?

Mr Dure: I don't know. We've had some people in from the ministry and one thing and another. They all had the same idea, from what I heard anyway.

Mr Gerretsen: What is that idea? That they want to develop it like the south?

Mr Dure: Bill 163 was the order of the day and we couldn't do anything.

The Chair: Thank you, Councillor Dure. We appreciate your taking the time to make a representation before us here this morning.

Mr Dure: Thank you very much for your time.

SUDBURY AND DISTRICT HOME BUILDERS' ASSOCIATION

The Chair: Our next presentation will be the Sudbury and District Home Builders' Association. We have 30 minutes for you to use as you see fit, divided between presentation and question-and-answer time.

Ms Celia Teale: Good morning, and thank you for allowing me the opportunity to comment before you. My name is Celia Teale, and I am past president of Sudbury and District Home Builders' Association. I currently sit on the executive committee for the Ontario Home Builders' Association as secretary.

The Sudbury and District Home Builders' Association represents 68 member companies and is one of 35 locals

represented in the province. I understand that this committee has already heard from our local in Toronto and from our provincial association.

Among the presentations already made and those to follow, it should become clear that the amendments contained in Bill 20 are changes that our industry support. This theme of support should be evident. However, I believe there are a couple of issues that I should take a few moments to focus on.

There is a strong need for change within the planning system towards a more streamlined approach, and Bill 20 goes a long way to identify many of our areas of concern.

First of all, the change in philosophy back to the "have regard to" provincial policies will go a long way in promoting the responsible planning we have all come to expect. Planning should be a process of balancing competing interests.

If interests compete or are in conflict with one another, then it becomes difficult to make decisions that are consistent with such policies. Responsible land use planning has to, and must, address a wide range of interests. The "have regard to" framework will allow planners the ability to balance interests. For example, common sense tells us that the more you restrict and limit development, the more expensive land becomes. As the price of land increases, the goal of affordable housing becomes more difficult to achieve. This does not mean that one goal should overshadow the other. It simply means that interests should be balanced. The "have regard to" framework will allow planners the flexibility to establish developments that will best serve the needs of their respective communities.

Secondly, the elimination of public hearings for subdivisions will help to increase the efficiency of the planning system, something our local is in strong support of. Public hearings are required for official plan amendments and zoning bylaws. Plans of subdivision cannot proceed without proper zoning and conformity to an official plan. Any concerns that would need addressing would have been taken care of at this stage in the process. Therefore, another costly public hearing is just not warranted at the subdivision stage.

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The need for shortened time frames is also addressed in Bill 20. There are two problems that exist with the current time frames. The first problem is that the time frames have no regard for the pre-consultation phase of the application. Under the current system a developer consults extensively with various review agencies and the public in an attempt to deal with potential problems before submitting a complete application. The time frames in place today have no regard for the work that goes into an application before it is formally submitted. For this reason, the time frames in the current system are too long. The time frames outlined in Bill 20 allow plenty of time for the approval authority to make a decision and should be maintained.

We also support the elimination of prematurity as a grounds for dismissing appeals. Although our industry welcomed attempts to screen out frivolous appeals, the prematurity scenario in the current system is not what we

anticipated, nor is it required. Under the present system a municipality can refuse to refer an appeal and the Ontario Municipal Board can dismiss an appeal without a hearing on the basis of prematurity. I submit to you that ample safeguards are present in the system to ensure that development does not outpace essential services. The issue of prematurity is a fundamental planning issue and should not be decided without the benefit of an appeal.

I would now like to focus on one issue that needs further attention in Bill 20, the concept of draft approval. Since 1989 the province has stated an interest in ensuring that there is a sufficient supply of building lots on stream to meet demand. The problem our industry is facing is that draft approval now does little to ensure that draft-approved lots will actually become building lots. Over time, draft approval has become less meaningful. Draft conditions of subdivision can be changed right up to the time of final approval. The rules that everyone started out respecting can change at a moment's notice. This means that the time and energy expended in getting a plan of subdivision draft-approved can be wiped out with one change to the draft conditions. We stress that limits have to be placed on the changing of draft conditions. Changes should be limited to the land owner and should relate to the initial conditions attached to the draft approval.

Comments relating to the planning amendments of Bill 20, in my opinion, have now been addressed. I would now like to take a moment to comment on the amendments outlined in Bill 20 relating to the Development Charges Act.

Since the act was passed in 1989 our industry has seen and predicted the negative impacts such legislation would have on our industry, home buyers and tenants. The policies associated with the formation of development charges were formulated in a time of unprecedented growth. These policies are out of sync with market conditions today. Many municipalities, including some within our region, have tried to rejuvenate the housing market by taking measures to reduce or eliminate development charges. The amendments outlined in Bill 20 provide the groundwork for a fundamental review of the Development Charges Act, something our industry is in strong support of.

Thank you for your kind attention. I would be happy to answer any questions.

The Chair: Thank you for your presentation. Questioning this time will commence with the government.

Mr Gary Carr (Oakville South): Thank you very much for a very clear brief; you did a terrific job of putting it together.

You talked in the beginning about the balance that's needed between the different interests. Is it your association's feeling that this bill has struck that correct balance?

Ms Teale: Yes. Number one, we strongly believe that under Bill 163 there were so many conflicting policies, and the "be consistent with" did not allow the opportunity for municipalities or developers to know the rules that they could play by. Number two, in our opinion, responsible planning is a balancing of interests, and by achieving the "have regard to" framework, going back to that, you can do that because it provides a little bit more flexibility.

Mr Carr: Your association, what would you like to see happen in terms of the development charges? What should the government do?

Ms Teale: In terms of the development charges, we would like a complete reworking of the whole act. Prior to development charges we had what was termed lot levies, which were more related to hard services. What has happened under development charges is, fees kept increasing and increasing, adding to the cost of new housing, just making it totally unaffordable. So what municipalities are faced with now is a lower tax base because they're not getting any new housing.

In the Sudbury region alone, we experienced half of the housing starts in 1995 that we did in 1994, and 1994 was a terrible year. So municipalities are trying to fight for tax dollars and they're not getting the tax dollars, and they're not getting any revenue from the development charges to begin with. Nothing from nothing is nothing. So you're better off trying to rework that whole act and see if some balance can be struck there.

Mr Carr: You also commented a little bit on the draft approval, and I just want to get a clear sense of what you'd like to see in that area. You made some comments. How would you like to see that changed?

Ms Teale: What's happened with draft approval over the years is, a developer in the past could go to the bank with draft approval and basically say, "I've gone this far in the planning system. I have draft approval," and it would mean something. Today what has happened is it's very difficult to finance draft-approved lots simply because sewer and water capacity can be stripped away from them. The rules of draft approval can change. Conditions can change on a daily basis right up until the plan is deposited and registered in the registry office. So there's no guarantee any more that the four or five years you've spent going through the system have gotten you anywhere.

Mr Carr: Just in the broad sense, with some of these changes plus what's happened in the economy and so on, what do you see happening to your industry over the next little while? Are you confident, or what do you see coming up over the next little while?

Ms Teale: I think that with the changes that are proposed within Bill 20 a lot of the problems that Bill 163 brought about will be addressed, and I think that the environment for our industry will become a little bit better. Hopefully with the review of the Development Charges Act, that will help us as well.

Mr Carr: Thank you very much and good luck.

The Chair: Forgive me; I neglected to mention there are seven minutes per caucus for questioning in this round.

Mr Hardeman: I want to go back to Mr Carr's comments about your position on the development charges and what you think would be appropriate. I think, from your presentation, the underlying part you are putting forward is that maybe presently the development charges are too high and on too many entities and so forth. Could you tell us what you would perceive the appropriate development charges to be, not in dollars, but in where they should be levied and where they should not be?

Ms Teale: I think in times such as these, where we're under extreme fiscal restraint, we have to look at priorities, and to me priorities should be the basic services. I don't think we should be going out and buying furniture for public buildings or supplying libraries if there isn't a need there or a tax base to support that. We should go back to the philosophy of, let's get sewer and water to people who need it and let's address the concerns over roads or whatever, more of the hard services, and strip away the soft services.

What's happening is it's just doubling up and doubling up. Under the Planning Act, a developer gives 5% parkland dedication, but under the Development Charges Act they're hunting for more money in terms of arenas, you name it. There's a whole gamut of things that are included in the Development Charges Act that in our opinion just shouldn't be there.

Mr Hardeman: One of the other problems or one of the things that has been brought to our attention is that under the development charges, not only may it be charged on too many entities, but that there's also a problem with how the money is spent at the end of the day. You mentioned buying furniture and so forth. Do you see it as a problem, does your organization see it as a problem, that there is not enough accountability, that even though it was collected for libraries, the right type of library and the right type of service is built in the appropriate place? Do you think there's a need to strengthen the accountability for municipalities, or do you feel that's fairly well covered off?

Ms Teale: I think there's a need for more accountability, because you can ask the question of where the money's going, but you have no guarantee of where it is actually going and how it is being spent and if it's being spent in the right areas of town.

The Chair: You have one minute left.

Mr Hardeman: Again on the same thing, do you believe it's important that it is actually spent in the area of town that it was charged for rather than in the total infrastructure of the whole municipality?

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Ms Teale: I think you have to determine need and access and location for certain facilities, but where a library is located or if furniture is bought for public buildings or things of that nature, I don't see a net benefit across the board to taxpayers. I just feel there is an extreme burden placed on new home buyers because they're paying for what they get today. The developer is putting in all the services. They're getting brand-new services. They're paying for their lots. They're paying for the house they're in. Their tax bill is higher in general than older areas of town, so they are paying for what they are getting today. They're paying for repairs that might have to be made in another area of town, but they're also putting money in the bank for the future to be spent at a moment's notice somewhere down the line. To me, that's just an extreme burden to place on any home buyer, and it's placed on tenants as well. It doesn't stop at the new home buyer, because any new rental buildings that are built under development charges are subject to that as well. So the cost of housing is just skyrocketing with no control.

The Chair: Next is the official opposition.

Mr Gerretsen: Well, that's of course where the irony is. This government says that it wants to give municipalities more local autonomy. They're basically doing that because they're no longer giving them the same grants as they have traditionally done. Yet they won't allow municipalities to, in effect, set their own development charges.

What we're really talking about, I mean, assuming that local councils are accountable—if we can't agree on that, then there's not sense talking about this—and they make the best decisions possible for their community, which may be a library, which may be more water and sewer, which may be building a new road or whatever—okay?—what it really boils down to is whether or not the people who move into the houses, because of the development charges that have been levied against your organization, are going to pay slightly more or whether or not those services are going to be paid over the general tax base in a community. What you're basically saying is: "Don't bug our industry with it. Get it from the general taxpayer." That's the bottom line of the whole thing, isn't it?

In the long run, it really doesn't matter whether that money is spent right in that subdivision or right in that neighbourhood. I mean, presumably the councils, if they weren't to take that money and spend it in that subdivision, would take some other municipal money and do that.

I have some great difficulty with your argument here, especially when you admit that in order to rejuvenate the housing market, some municipalities have already eliminated some of these development charges. So I come to the viewpoint that if a municipality realizes none of the lots is selling and being developed because the development charges are too high, they're lowering them. It's a question of supply and demand, isn't it? I can't understand how the Conservatives, who are great believers in supply and demand and letting the marketplace determine the price of a lot, can possibly be against it.

Ms Teale: There's a whole gamut of things that you can look at, whether you want to go to a user-fee system where people pay for the certain services they get or you even it out across the tax base. I just don't understand that—like, for years and years tax revenue was utilized within a municipality and services were met.

Mr Gerretsen: And there were no development charges specifically.

Ms Teale: No. Whatever was charged was charged simply for hard services which were, in my opinion, a priority. Now what's happening is, people are forced to amortize \$8,000, \$10,000, \$12,000 into the life of their mortgage to pay for a development charge, which is a tax, in my opinion, that's totally unfair.

Mr Gerretsen: And you're saying it should be shared by the whole tax base?

Ms Teale: Yes.

Mr Gerretsen: I can understand that. Let me ask you this—

Mr Carr: Are you convinced?

Mr Gerretsen: No, but that's the main argument. What the industry is basically saying is, "Don't saddle us with it." We could agree with that or not agree with that.

At least, I can understand your viewpoint. I don't necessarily agree with you.

The other question I have, though, deals with the real time lags in the whole development process. That's the thing that I keep coming back to, and I'm sure that the committee is sick and tired of hearing about it, but where there are 20 days for appeal, 30 days for appeal, 60 days to react, 90 days to react, isn't it a fact that in most developments, when you take the time that it takes an application to go through the planning staff and the board and city council and the various ministries in Toronto—I know; I used to phone them and three months later, after they'd received the file, they still haven't opened one up and looked at it—isn't that where the real time lags in the development industry are? They've got nothing to do with the time restraints contained in the act; it's more the administrative delays. Wouldn't you agree with that?

Ms Teale: There are administrative delays, but if you give the province 180 days to comment on something versus giving it 30 or 60 days, it makes a big difference. I believe strongly that part of the problem is that planning should come down to a more local level. To me, for an official plan amendment for any part of this region to end up in Toronto when there's somebody there who doesn't live with the local conditions and is going to comment, of course it's going to take him longer than it would somebody right here and now. That's one problem; it should become more localized. And if the time lines were more condensed, we wouldn't be facing five or six or seven years to get things—

Mr Gerretsen: I think it would also help, especially since we're going to use the one-window approach now, if the protocol that exists between the various ministries in reporting to the Ministry of Housing were clearly set out so that everybody—the general public, the municipalities and the development industry—would know what that internal process is, because a lot of people have concerns about that.

Finally, I want to ask something very briefly about subdivisions. The rezonings are handled in different ways. In some municipalities, when a rezoning is done there are some very great detailed plans and at the public meeting people would know what's coming. In other municipalities, I would suggest, when an official plan amendment is made and a rezoning is done, it is done in a much looser fashion whereby the general public, especially the public in the immediate area, really doesn't get a clear look at what the actual development proposal is for a piece of land, which you only get when you get a subdivision plan.

I don't know what the practice is here in Sudbury, but in my area around Kingston, you've got two completely different municipalities doing it in totally different ways. One wants very detailed plans at the rezoning; another does not. I'm just wondering how fair it is to the public in cases where those rezoning plans aren't that detailed, if you didn't have a public meeting at the subdivision process.

Ms Teale: The majority of concerns, from my experience locally anyway—I work for a developer, and before we submit an application, we go to the public and we have a plan and we go through it. But the level of detail

that goes into a plan of subdivision I don't think has broad-ranging, sweeping concerns for the whole community. Whether you have 10 50-foot lots or 12 50-lot lots, it's not going to have an overall impact on that neighbourhood. Most of the concerns raised are at the official plan stage and the zoning bylaw, because the density and everything else is addressed at those stages. To me, to tack on another public hearing at the subdivision stage just is not warranted.

Mr Gerretsen: But on the other hand, you do agree that the developers should go out and meet with the general public in that area as quickly as possible, and usually that's a very positive experience because you know exactly what the public is thinking about it before you get too deeply into it.

Ms Teale: I think that occurs in most of the cases, I really do. If you own a piece of land and you want to get through the system as quickly as possible, you're going to make darn sure you're out there in the community and letting everybody know what's happening and what you want to do.

Mr Gerretsen: You must work for a good developer, then, because it isn't always done that way.

Mr Bisson: Just for the record, because it was just a nod rather than an actual yes, you're saying that rather than having the development charges for soft services be borne by the mortgagee, the person who buys the building, you would rather see that in the form of tax, through the broader-based assessment of the tax system.

Ms Teale: Tax or user fees or things of that nature.

Mr Bisson: A user fee would be a development charge, would it not?

Ms Teale: Not to the same extent.

Mr Bisson: Anyway, what it comes down to is that you're saying that as a developer you shouldn't be responsible for that, that it should be a function of the municipality and put it over the tax base. Rather than me putting it in my mortgage for 15 or 20 years, whatever my mortgage is, we spread it out over the base of the tax system.

Ms Teale: That's how we've done it for years.

Mr Bisson: One of the things that bothered me in your presentation was the whole question of accountability. I must have misheard you, and I just want you to clarify. You were citing the example of a new subdivision being developed and the concerns about the development charges on soft services being applied for the construction of things like arenas or libraries and stuff. You worried about the accountability of the decisions about what type of facility needs to be built, how big it has to be, what kind of furniture a parliamentary assistant needs to go in it etc. You're worried about accountability. I wonder if you could elaborate on that.

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Ms Teale: The one thing the Development Charges Act tried to do was create accountability, because before that there was no accountability. What's happened now is that every time you want some form of accountability, they'll just say, "Well, 20% was spent on roads, 15% was spent on furniture," or what not. There's really no accountability for how that money is spent.

Mr Bisson: But I would argue there's an extreme amount of accountability at the local level. That's why

we elect our aldermen and our mayors, to make those decisions as a municipal council about where the municipal tax dollars are going to be spent, either levied through development charges or levied through a property tax. If local people in an area think a library is too big and the municipal government blew its wad building a library, people have the right to agree or disagree through exercising their franchise and voting. Would that not be the case?

Ms Teale: Often it's too late, at that point.

Mr Bisson: That's the problem I have, and this is not directly out of your presentation, but you sort of speak to it. There's this sense that we would be better served by moving away from a democratic system where local politicians make decisions to a system where the private sector makes those decisions. There's a hell of a lot more accountability from somebody who's elected than from some developer, whoever it might be, who's not accountable to anybody but his or her shareholders. I just wanted to clarify that.

Another thing you talked about—Mr Gerretsen touched on this—is the whole question of public hearings on the development of subdivisions. One thing I've learned in this business, and I'm sure members who have been around here for a while or who've served at the municipal level understand, is that where the public tends to get upset in development is when something comes out of the blue and they don't know what hit them. Then the accusation is made at the developer or the council that all of this has been done behind closed doors, that there's some sort of hidden agenda here, that the subdivision is way bigger than what it actually is going to be. All kinds of rumours fly. Both you as a developer and the local politicians and the local planners end up running all over trying to assure everybody—that is, the way it was done under the prior act—trying to assure people of what the development is actually about.

It seems to me it would be a strength of the system to keep in Bill 20 the provision that you have to have public hearings when you're developing a subdivision. The more information you can give the public, I find, people are pretty reasonable when it comes to this kind of stuff. If you put the information in front of them and you clearly demonstrate what you want to do, people tend to take a look at that and make decisions that are pretty supportive, I've generally found. I find it curious that you support the government's zeal to take that out of the legislation. What do you have to gain out of that? I think you have more to lose.

Ms Teale: In my opinion, the zoning and the official plan for an area deal strictly with density. Here, you can't develop anything less than a 50-foot lot under the official plan. That basically tells you that when you have an R-1 zoning and—

Mr Bisson: But what I'm getting at is that when you're developing an official plan, the people living in my area, in Melrose subdivision, who might have a new part added on to the subdivision, were not involved at all through the official plan process and neither did they care. You only care when the development's about to happen.

It seems to me it's a strength for the developer, because it gives you the developer the opportunity to say

to the people in that neighbourhood, "Here's what we plan on doing." People can come in, they can see what you want to do, they can look at your plans, you're able to answer questions. Then people leave with information and there's less rumour-mongering. I think to take that process away really in the long run would give you a harder time than helping you.

Ms Teale: I guess that's a matter of opinion. I'm not going to belabour the point. If you go out and you're rezoning a piece of land, chances are you have the development there. It's being handled at that public meeting anyway. You're addressing the concerns.

Mr Bisson: That's not always the case. A mining company did a project in downtown Timmins some years ago which is now called the E.R.G. hole. Basically, we've got this great big hole in the middle of the city of Timmins that's filled with slime and water because things were allowed to happen that shouldn't have happened. There were provisions by the Liberals when this all happened that there be public meetings and that people find out what's going on, and the mayor and council tried to do the same. Because people understood what the company was given—and assurances were supposedly given—people's concerns were not that great going in. The problem is that the bonds that were supposedly put up for this weren't actually materialized. The company went broke and the taxpayers were left on the hook.

The point I'm getting at is if that had been done behind closed doors, the public would have gone nuts, rightfully so. But because there was an openness on the part of the company, the municipality and the province to explain to people what was going on and to try to assure them that their concerns would be met, there was a lot less problem for the developer. I would say that project went ahead because of that process. If it hadn't been for that, that project would have never gone. I wonder sometimes if we would have been better off the other way.

The Chair: Thank you, Ms Teale. We appreciate your taking the time to make a presentation before us today.

HEIDI RALPH

The Chair: Our next presentation is from Heidi Ralph. Good morning.

Mrs Heidi Ralph: Good morning, Mr Chair. I'm a resident of Secord township, an unorganized township and part of the Sudbury East planning area, and I was recently appointed to the Sudbury East Planning Board. I've been interested in the planning process for Sudbury East for about seven years.

We recently had an official plan authored, and I sat through many meetings with the authors of the plan, ministry officials, and had some supposed input into what was going to go into the plan. However, when it actually came into effect, it was quite different from what the public had thought was going to be in the plan. We organized and did get a few minor changes made, but I think people first of all didn't understand the government policies and, second, were not very happy with it.

Most people now, though, do understand that development should mainly be promoted in the municipalities

and that the outlying unorganized townships are not going to be having the same kind of development a municipality has. I think that is understood now by most people.

However, the new regulations, which really must be looked at also with the provincial policies, have the effect that it actually closes down development in the unorganized townships. There will be no more severances now in the unorganized townships, and that is unacceptable for most people who live there.

We feel that our official plan only allows for very limited development only under the infill provision of the plan, which is very restrictive and is self-limiting.

Subsection 3(5), which changes the context to "having regard to" from "being consistent with," at first seems a lot like it actually allows some flexibility, which people had been hoping they would get under the new government. But that by itself is very deceptive, because you can't look at that as standing alone. You have to look at that with provincial policies, which simply will not allow for any more rural development.

We feel that for the survival of the rural areas, it would be necessary to have some growth. We're not asking for unlimited development, but we do think we need to have some new severances, some growth, in order to stay viable.

Costs are always thrown at us as a reason for hopefully emptying out the rural areas. We're always being told, "You're too expensive; you cost more money than anybody else," but I have yet to see an independent study that actually supports that government argument. After all, we have almost no services. The roads are plowed. There is no garbage collection. When my well goes dry, I have to drill a new one. No government that will give me a subsidy to drill a new well, or if my field bed isn't working right, I pay for it myself. The schools—that's another cost that's thrown at us, that the schools are more expensive, the small schools. However, when Wanup had its own school board, the school had no debts even though it ran the second-longest bus route in Ontario. When it was turned over to the Sudbury school board, school taxes went up by 500%, 600%. If the cost is higher, it's simply because they don't run it as efficiently as the people in the area did when they ran it themselves.

1030

Other costs created that I feel have nothing to do with rural residences is that there's no coordination between the different government agencies. For instance, there was a study going on that was going to straighten the road I live on. Every part of the road was surveyed and people were asked to comment on it. I suggested that if they were going to take off the front of my lot, which had the field bed on it, maybe it would be better to take the other side of the road, and they said that would be a good idea. However, that was about six or seven years ago. In the meantime, somebody has built on that piece of land and has put their field bed in front of their house, so now either way, they're going to be making a new field bed for somebody. That wasn't necessary because they could have made a provision that when somebody built on that property, they could have put the field bed somewhere else. These are the kind of costs that are then checked back to rural residences, which really could have been

prevented by better organization of the government's own policies.

I'd also like to comment that it mentions in the changing of subsection 3(5) that all people in the know know what it means. Well, the interpretations of these kinds of statements change depending on who you talk to. You could be talking to one official who says, "This means a certain something," and then the next time you talk to someone else, and they say: "No, no. That guy didn't know what he was talking about. This is what it really means." I've come across this now quite a number of times. If you're going to make changes and then not really define them properly, that becomes kind of meaningless to people.

I'd like to see a little more autonomy for planning boards. We have recently been given the authority for severances. In the official plan, there are some changes it would be nice to have done, and if planning boards could make their own changes, I think that would be a good idea. Who's better informed as to what changes should be done to an official plan than a planning board that administrators that plan? They can see where the weaknesses would be in the plan and they could see where some changes need to be made, having regard to the provincial policies, if that is well defined.

I'd like to see that flexibility that is talked about, but which I don't see materializing for the unorganized township, to actually materialize and to give the planning boards the flexibility to administer that plan in a more even-handed manner. I'd like to see the planning boards able to make their own official plan amendments.

The message that seems to come across from the changes in the bill and the new provincial policies is that the government has drawn a line across a map of Ontario which makes development and growth easy for the south but closes it up for the rural areas in the north. That is an unacceptable thing for the people in the north, and I'd urge the panel to take that into consideration and allow the people of the north some self-determination.

The Chair: Thank you very much. We have seven minutes for each caucus for questioning. Questioning at this time will commence with the official opposition.

Mr Gerretsen: I enjoyed your presentation. I'm just trying to get a handle on the problem with severances here in the north. I must admit, before coming here I wouldn't have thought this would be any problem at all, with the land mass you have here and the few people. I'm totally amazed. In your official plan, what does it say for a severance policy? What's the minimum acreage you need?

Mr Ralph: The severance policy only allows severances in an infill provision, which means you have to have two separate residences on two separate lots and the homes can be no more than 150 metres apart. So you have to have two fairly small parcels.

Mr Gerretsen: Another gentleman earlier today addressed this as well. He was basically saying that there is an attempt to have infilling take place when in a lot of situations people basically leave the city so they can live on large tracts of land that they want severed from other tracts of land. Does it not say anything about what the minimum severance requirements are in areas that are not infill areas?

Mr Ralph: There is no other policy for severance because you cannot sever any other area except in the infill. It is the policy of the government to allow as little severance as possible, and this is a way of limiting severances. You can build on a lot of record; you might be able to buy a 100-acre parcel and build something on that, but you cannot sever this 100-acre parcel into two 50-acre parcels.

Mr Gerretsen: If I had a 200-acre parcel?

Mr Ralph: You cannot sever it either. You can have 500 acres and it cannot be severed.

Mr Gerretsen: Maybe I misunderstood the earlier gentleman, and I'd like to—I don't believe he's here anymore. When he talked about 200 severances taking place in the area over a 10-year period, was he talking about infilling or was he talking about—

Mr Ralph: We've only had this official plan now for a year. Previous to that, nobody really knew what the policies were, and that used to be one of the main problems. We used to complain, "We don't know what the government policies are in regard to severances."

Mr Gerretsen: What are people being told if they own large acreages of land and they want to sever 50 to 100 acres? There's no hope at all?

Mr Ralph: No way. That point has especially been driven home to us that there will be no severing of large parcels, that it is the government's policy not to sever large parcels of land.

Mr Gerretsen: Mr Chairman, I wonder if we could have a document given to us as to what the government policy actually is in this area. I'd be interested to know what written documentation the ministry has with respect to severance policies in the north. I get the impression that it's almost the same as in the south, where the land mass and the numbers of people are totally different.

Mr Ralph: You must understand that we're talking about unorganized townships. The municipalities have their own rules, I think five acres, but that does not apply to the unorganized.

Mr Gerretsen: But I would assume, and maybe you can correct me if I'm wrong, that even fewer people live in the unorganized townships than—

Mr Ralph: Yes, it's very sparsely populated.

Ms Shelley Martel (Sudbury East): Mr Ralph, I was curious to hear you say that you felt, and correct me if I'm wrong, that the Tory changes that are planned for moving from "consistent with," which was in our Bill 163, back to "have regard to" will in your opinion not allow for development in rural areas. I was very curious, because certainly that's one of the reasons the government is moving it forward, because it thinks that will be exactly the effect. Maybe you can just explain that a bit further for all of us.

Mr Ralph: When you look at this, you say: "Right. This is what we've been looking for. We're going to gain some flexibility." But this is not the only document as it relates to land use. You have to also look at this one. We're not here to discuss this, but we're always being pointed to here and it doesn't even address rural severances. They're not in here. Why are they not there? If it's not there, I say you don't have it.

Ms Martel: Mr Leach, as I understand it, is reviewing provincial policies now?

Mr Murdoch: Right.

Ms Martel: But they are not prepared, so obviously Mrs Ralph doesn't have the benefit of looking at those at this point to determine whether—

Mrs Ralph: What I have is a draft plan of the new provincial policies.

Ms Martel: It might have been helpful if they had been here so people would have known. What you're concerned about is that currently, as the act is written and it appears before you, you don't see any change, which is certainly a reason a number of people voted for the Tories in the first place.

Mrs Ralph: We see a change for the worse.

1040

Ms Martel: Right. Well, that's very interesting.

I want to go back to the role of the planning board. Obviously, the role of the planning board could or might change, given whatever legislation is in the end passed by the Conservatives. At this point, for the unorganized area at least, do you have any sense from Municipal Affairs officials now what will happen with some of the other authorities that Toronto was still dealing with? Right now you can deal with severances, but other issues the planning board deals with still go to Toronto and may yet continue to go to Toronto, especially under the unorganized areas, so you're not going to be in any different shape than you were under Bill 163.

Mrs Ralph: No, we're not. The only difference—and this is something that had already been planned previous to the government changing—is that the decision-making with regard to severances has gone to the board rather than being in Toronto. But changes to the official plan and amendments still have to go to the minister, which to me doesn't make sense, but that's the way it is right now.

Mr Hardeman: Good morning. First of all, I want to go to the issue of the flexibility and the wording change from "shall be consistent with" to "shall have regard for." I find your comments somewhat interesting, that you do not feel it provides more flexibility. The opposition members have consistently suggested that changing that wording is the same as telling municipalities or the planning boards that they no longer have to pay any attention to provincial policy statements, that having had regard for them, they can put them in the drawer and forget they're there and then go on and do as they see fit. You don't see that as the case.

Mrs Ralph: We're not dealing simply with that one little wording; we're dealing with provincial guidelines. If they say you can't do it, you can have all the "regard to" that you want. I don't see how you can possibly do it.

Mr Hardeman: It's been told to this committee by some presenters that if you've had regard for, you don't have to do it, that all you had to do was have regard for. But you still feel that "have regard for" implies that you still have to do what the policy statement says.

Mrs Ralph: If it says you can't do something, I say you still can't do it.

Mr Hardeman: You suggested in the beginning of your presentation that this would not allow any more severances in the unorganized territory. Are you suggesting that this will allow fewer than the policy statements under Bill 163?

Mrs Ralph: Yes.

Mr Hardeman: I guess I have some trouble with that. What part of the bill do you see that has changed, or are there policy statements that have changed, that would allow fewer than 163 and the previous policy statements would allow?

Mrs Ralph: I would find it hard to pick out the particular section in the bill that would make the changes. I would have to point to the provincial policies, which are not being reviewed here today.

Mr Hardeman: We accept that they're not being reviewed. I have a copy of them too, and I just want to point out—

Mrs Ralph: It doesn't address rural severances in this policy.

Mr Hardeman: I just point out that the government's intention is to somewhat give more local autonomy and let the decisions be made locally. The section that deals with that in the policy statements is that we will be focusing development activities in territories without municipal organization on "resource and resource-based recreational activity, with the following restrictions"—

Mrs Ralph: Well, it mentions resource-based, it mentions recreation, but where is rural residence there? It isn't there.

Mr Hardeman: I would just point out that the former one didn't have that either. It's not making it more restrictive but in fact opening it up so it's not as prescriptive.

Mrs Ralph: Well, I'm very leery of that. If it doesn't mention it, I'd say it can easily be used to—I've been through some of these processes. I know how this is being interpreted by ministry officials. Believe me, if you think there's flexibility, they will very quickly—they've told me: "Forget what the politicians say. They don't know what they're talking about."

Mr Gerretsen: Who is that person? What's his name?

Mrs Ralph: I don't recall.

Mr Murdoch: I'm glad you brought this up, because you're right on, and it's the problem we had with the first presenter too. It's the mentality we have at Queen's Park with our planners down there, and they probably would say that. I agree with you. We're going to have to straighten that out, and I see what you mean. And we may have to look at the policies, which can be changed, and I'm glad you brought that up, that maybe there needs to be some change in the policies where rural residential houses will have to be allowed in the unorganized townships.

I think, though, with this bill it will give you more flexibility. I understand what you're saying, it's not in there, so that's a good point to bring up to this committee and we're going to have to certainly look at that.

Mrs Barbara Fisher (Bruce): I would just like to reiterate one of the points Mr Hardeman made, and that has to do with the "regard to" and "be consistent with." Throughout the hearings, whenever somebody decided to talk about that who had a choice of interests, which may not be taking into the full picture all of the considerations, the "have regard to" was accused of being more free or more flexible and giving that autonomy to the local decision-makers.

I don't disagree with that. I agree that "regard to" does bring it back. It also gives the local planning boards—I think you mentioned that you recognize the local planning boards have more autonomy.

So I would first of all I guess question why you're saying it's more strict or more stringent when you're agreeing that the local autonomy makes a decision because it's here and it knows and that "have regard to" opens it up a little bit at least.

Mrs Ralph: It does give that appearance, but I'm very leery when I see a provincial policy statement—

Mr Murdoch: She's been dealing with the bureaucrats in Toronto. That's her problem, and that's our problem.

Mr Bisson: The bureaucrats are an endangered species.

Mrs Ralph:—because the interpretation that is put on that then is not what we all assume it to be when it comes right down to wanting to do something. Then they point to provincial policies and say, "Well, here it says, 'Go to a municipality and build there.'"

Mrs Fisher: Okay. The other question I have is that there seems to be some confusion over this organized, unorganized and the rights of and the non-rights of.

Interjections.

Mr Gerretsen: Mr Chairman, would you get the government members in line?

The Chair: Get both members in line, yes.

Mrs Fisher: It comes to I guess a matter of choice—and I appreciate that, and that's everybody's right—where one wants to live and within what parameters. Why would one choose unorganized as opposed to organized and still expect the same services when they're not paying for that except for through education taxes?

Mrs Ralph: We do not. We do not expect the same. There are no services provided.

Mrs Fisher: Except for water and sewer. What else? You still have access to all the soft servicing. You still have police provision, you have fire provision. You're paying for education, that's a fact, but that's another thing you have access to. So my question would be, why would one not want to be organized? Tell me the reasons. I just want to understand the reasons why one would not want to be organized.

Mrs Ralph: The government will not allow new organizations. We can't just say, "Oh, we'll just organize into a municipality."

Mrs Fisher: Through this opportunity of restructuring which is out before us right now, would this not be the opportunity? I think it will allow it. Would this not be an opportunity now to fit into the same desirable applications of planning by having an organized area, called restructured, and then have access to the same things that you're asking for?

Mrs Ralph: We have been told quite plainly that they would not allow any new municipal organization.

Mrs Fisher: But through restructuring, I think you have an opportunity now to include yourself in one that might provide what you want. Would that be a reasonable option?

Mrs Ralph: There are two municipal organizations in the Sudbury East area. One is approximately 50 kilometres away; the other one is probably about the same. We are only about maybe 15 or 20 kilometres away from

Sudbury. So to join one of those other municipalities seems really unwieldy.

Mrs Fisher: I don't know, you might be right and maybe that's not the preference of the people, but then I guess you make that choice. Then when you live with unorganized, you live with unorganized for that reason. Again, it's to the people's choice.

But in my riding, for example, we're looking at 30 municipalities and there's a spread of a two-and-a-half-hour drive, so whatever mileage, and an hour east, for example. So some of those people are looking at restructuring. Now, they happen to be organized, so that wouldn't come into consideration in their debate here. But in a case where you are, 30 miles is not an extremely long distance when you're looking at perhaps access to the things that you want.

1050

Mrs Ralph: I don't think the people there absolutely don't want to be organized, or "I choose to live in an unorganized township to have access to free services." Anyway, if the government feels it is too expensive, it has the ability to raise the provincial taxes that we pay to—

Mrs Fisher: But then everybody would benefit from that. You see, everybody would expect to benefit from that.

Mrs Ralph: They do have the opportunity, though. If money is an issue, then they can raise the taxes in order to pay for those services that they feel we're using.

The Chair: Thank you, Mrs Ralph. We appreciate your taking the time to make a presentation before us this morning.

Mr Gerretsen: These people just want to be left alone. They just want to be able to build a house out along the highway.

Interjections.

Mr Gerretsen: On a point of order, Mr Chair, on a point of privilege: Could we have at some point in time from the parliamentary assistant the existing policy statement relating to severances in unorganized areas?

The Chair: Mr Hardeman?

Mr Baird: Is that a point of privilege, Mr Chair?

The Chair: Well, it's not a point of privilege.

Mr Gerretsen: It's a request for information, so we can make an informed decision.

The Chair: If the member is making a request for information, I will accept it.

Mr Hardeman: If I could, Mr Chairman, there is no provincial policy statement on the severances, but I'm sure there is a policy that the ministry uses in reviewing those. We will look into that and see if we can provide that for you.

EDWIN JYLHA

The Chair: Our next presentation will be from Mr Edwin Jylha. Mr Jylha, we have 30 minutes for you to use as you see fit, divided between presentation and question and answer period.

Mr Edwin Jylha: Thank you, Mr Chairman. Board members and ladies and gentlemen, I don't know if I'm even at the right meeting.

Mr Galt: We don't either.

Mr Jylha: By the sounds of it, it's very confusing. I was standing instead of my sister on this particular—and it was only three days ago that I received the good news that you're it. What I'm about to present to you is basically—I didn't have a copy of Bill 20, but I had the official plan of our new planning board, and most of my comments are basically maybe directed at it but in conjunction with Bill 20. I think it goes hand in hand.

I'm Ed Jylha, owner of the north half of lot 2, concession 6, Secord township. This is basically a personal presentation on behalf of my sister and I, who own the property jointly. We inherited the property from my father, who, along with my mother, under the Homestead Act in 1932 during the Great Depression went into Secord township and after many years of hard manual labour was able to clear enough land to be able to patent it. They operated a small dairy farm on it for some time, until modernization took over and to ship milk it had to be in stainless steel containers and better refrigeration. For a small operator, virtually it was impossible to be able to afford this, so most of the small dairy farms in the Wanup district, and I dare say all over, just had to close up. It was literally only left to the large establishments that could afford to make all the changes.

Basically, in 1960 my father passed away, leaving the property to my sister and myself, with the thought that we'd look after mother. We have kept the property, as sister still lives there, and with the hope that some of our children or grandchildren might want to build there or, in the case it was necessary, to sell off a parcel in order to be able to place mother into a nursing home at some stage, because it's very expensive to do so nowadays.

But upon reading the official plan for the Sudbury East planning area for unincorporated townships, I find that property severances may be denied. I refer to a section of the planning board minutes. During "Settlement Patterns," it states that Secord township is predominantly a summer residence location when in fact it's not. Permanent residences are three to two in ratio. The other statement is that Secord township is among the less accessible in the study. This I find strange when in fact the Secord Road, which runs 0.4 kilometres in Dill township, 5.6 kilometres in Secord and 2.4 in Burwash township, was once the original highway from Sudbury to the French River before the incorporation of Highway 69. That was the main road through the district, along which at the moment the majority of the permanent residences of Secord township are built. But apparently this wasn't considered, and I fail to see why not.

I would like to suggest that the eastern quarter, lots 1, 2 and 3 of Secord township, be included with the six more concentrated, populationwise, townships in the report. This should be reflected in the minutes of 4.17.22 on page 62.

Burwash township, the neighbouring, is also along the Secord Road, and the official plan recommends that there be infill on Secord Road, but even infill is denied in Secord township. I find it strange that you would apply a certain thing to one township along the same road and not the other. I sort of feel discriminated upon in being in the middle.

A little bit of history: The Finnish people who originally opened the lands and built in the Wanup district welcomed rural living and along with their neighbours maintained the roads and built schools for their children. Community pride is very strong and, like all parents, they desired that their children, when grown up, would live near them. But unless property severances, or lot creation, be allowed, these dreams are dead. Not only dreams will fade, but our schools will close due to the lack of children, descendants of them.

Just an example of community caring was recently displayed by one of the forefathers who helped open up the Wanup district. In his last will and testament he left the school board \$30,000. An act such as this is only seen in rural communities.

The statement in the official plan for the Sudbury East planning area in section 1.2.7 states that services to scattered developments are more expensive to deliver and are heavily subsidized in the unincorporated areas by the province. This has not been proven to be true, not at least in Dill, Cleland, Burwash and Secord townships. We may be even saving the province money by the use of our volunteer fire brigade, which attends vehicle fires and accidents along the provincial highway. Also, the volunteer brigade assists the provincial ministry in fighting fires. As the community is basically a user-pay for services, the province does not have to pay for water, sewer, garbage pickup or fire protection, plus other services that are required in urban areas. Therefore, the cost to the province has to be less, not more, as is stated.

In closing, I would request that the eastern quarter of Secord township be included with the six more populated townships and that severance rights, lot creation, be included in the land use tables, following specific guidelines. There have to be regulations for everything.

The Chair: Thank you, Mr Jylha. Recognizing that you haven't had the advantage of seeing the bill, still I think you've raised some issues that are within the purview of this. I just ask the members to keep that in mind when they question Mr Jylha. The questioning this time will start with the third party, and we have bang on seven minutes per caucus again.

Mr Bisson: First of all, thank you very much for taking the time and coming to make your presentation. Obviously, by the sounds of about two or three of the presentations now, this is an issue that a lot of local land owners are concerned about and want some work done on.

1100

I just want to try to explain this in my own words to make sure I understand what the issue is here. What it really comes down to is that some years ago, when the land was purchased or the land was acquired back in the 1930s, the question of severance was not so much an issue because they were young families who came into the area or who were already here, who picked up the land, in some cases turned it into a farm or a dairy farm, as your parents did, or maybe the people just lived on it. There wasn't really a whole bunch of pressure being put on municipal or provincial governments to sever the land while their families were younger. But as the families grew older and their children got married and moved

away, there was an increasing demand by the family members, the children of the people who owned the land, in order to be able to sever the land so that they would be able to live out there and stay close to home and live in the place of their choice. That's basically what this is all about.

Mr Jylha: Yes.

Mr Bisson: It's somewhat similar to what has happened up in our area, but would I be correct in assuming that what happens is that as time goes on there are going to be more and more pressures for severances to happen? Let me reword that another way, so you know where I'm coming from: It wasn't so much an issue 15 years ago, because it wasn't as much of a pressure to sever the land as it's becoming now. Would I be correct in assuming that?

Mr Jylha: At one stage of the game it could be severed, but then don't forget—I don't remember the exact year when it was closed completely.

Mr Bisson: Yes, 1967. But what I'm getting at is that 15 years ago there would have been less pressure to sever this land than there is now. I'm correct in assuming that?

Mr Jylha: Yes.

Mr Bisson: Severances were allowed to happen prior to that, but really they happened on a haphazard basis.

Mr Jylha: Exactly.

Mr Bisson: In my area, even outside the agricultural land that we talked about before, it was really up to the local planner. In some cases, because Bill Murdoch knew the local planner, he got a severance for his family, but Doug Galt, who didn't know the planner, maybe didn't get it—and they lived on the same road. That's sort of the way it operated before.

Mr Jylha: Exactly.

Mr Bisson: Just so that we put that into some context. The problem I see that you have is that you're looking at Bill 20 as the solution to your problem. You're saying, "We're looking to Bill 20 because we didn't see in Bill 163"—in fact, you saw it as more restrictive when it came to severing off land. You're looking at the Conservative government and you're looking at Bill 20 in order to allow you to sever the land. That's really what you want to happen here.

Mr Jylha: Right.

Mr Bisson: But the problem is the bill doesn't do that.

Mr Jylha: I haven't read the bill, so I don't know; I'm just going by the planning board minutes, which follow the guidelines of what was set out for them.

Mr Bisson: But I want you to be clear here and I want your residents to be clear here—and this is no swipe at the Conservative government, because I'm sure this is not an issue that they really thought about as they were preparing Bill 20. Well, it is a swipe at you, Bill, on second thought; I just had a look at you and my eyes went blue. But the point I'm getting at is, this bill does not respond to the concerns that you raised or the concerns that other people have raised when it comes to severing off land.

It seems to me as a legislator that you've got to find a balance here. On the one hand, I would be opposed—and I'm not going to hide my position here—that severances happen haphazardly, that we go back to the good old

days that you talk about where if you knew the planner you got the severance, if you didn't know the planner, you didn't get the severance. I take it you would not support that either.

Mr Jylha: No. We recognize that there have to be guidelines for everything. We've got to look after our environment, our waterways etc. What we would like is just the right to present our plan and have it either rejected or passed, but to be able to do it. We're being denied that.

Mr Bisson: But the message I'm trying to give here, and I'm trying to assist you so the government clearly understands, is that what you're saying, or I understand you saying, is that you're prepared to be a responsible land owner and if severing the land in your case means to say that you would not be doing something that's good when it comes to some of the provincial policies that exist under this legislation, you wouldn't be happy, but you would understand that maybe you should not be allowed to sever. But what you're saying in the end is, "Make it clear in the legislation that if I meet all of those guidelines as set out under the provincial policies, I be allowed to sever my land," the long and the short of it.

Mr Jylha: Exactly. I've got 150 acres doing nothing. In fact, it's a burden because of the taxes. If I can't do anything with it, how much will the government give me back if I turn it back to you?

Mr Bisson: The other thing is that—and I take it most members probably understand this, but just to make it clear again—I was raised on the type of land that you're talking about. I lived by a lake with about three families and nothing but 100 miles from either side of us. But the reality is that there are no services by the municipalities in most cases, when it comes to services that you get. You may have garbage pickup now, I would imagine.

Mr Jylha: We pick up our own and bring it to a recognized site.

Mr Bisson: So the only thing you have is a local roads board that does your road.

Mr Jylha: That's right.

Mr Bisson: And the bus that comes and picks up your kids.

Mr Jylha: Right.

Mr Bisson: Then you pay a whack of taxes to the municipality.

Ms Martel: To the school board.

Mr Jylha: One lady just said—

Mr Bisson: Oh, to the school board, I should say, sorry; I should rephrase that. My colleagues may have some questions. I just wanted to clarify what the issues were.

Mr Hardeman: Good morning, sir. I appreciate your presentation based on the review of your official plan as opposed to Bill 20 because I think it does point out the problem that exists as to discussions we had earlier when you mentioned you didn't know whether you were at the right meeting because confusion seems to reign.

I think that it's important to recognize the policies, and it was requested by a member of the opposition about what the criterion is that's used to judge or to review an application for a severance. As you pointed out, the criterion that's used, both by the ministry for review and

by the local planning board, is the official plan of the area. As you referred to, presently there is a new official plan prepared for your area that's being approved by the local planning board, so it's a local decision that the severances will be based on.

That document, of course, is being prepared using the policy statements and the guidelines set forward by the province. I'm sure under the plan that you're referring to, the guidelines that are being used are the policy statements as they relate to and are directed by Bill 163, the policy statements that went with that. Under the new regime, it will Bill 20 and the policy statements that relate to that, recognizing that those policy statements have been shortened down and hopefully clarified to make it simpler to understand and easier to deal with.

But I do want to question you as to your involvement with the preparing of the official plan that you're referring to. Have you been to the meetings or have they held meetings to discuss the issues?

Mr Jylha: I attended one meeting that was called at the community centre, and it was to give us what was going on, but it was very short. Actually, the input from myself was negligible, the one meeting that was called that I was informed of. I went to another meeting but that meeting was called off because of not enough people attending. So the participation as far as I was concerned, on my part, has been very, very limited. My sister's been involved with it more, and she got called to work here suddenly, so that's why I'm trying to fill in; not very adequately, mind you.

But anyway, some of the thoughts that I thought were pertinent to the local people like myself in particular—with 150 acres doing nothing, and the day is coming very shortly where I might have to put Mother into a nursing home. She's 84 and managing quite well, but for how long? This is property that my father left so we could sort of look after Mother and now I find that I can't use it.

Mr Hardeman: In the official plan, what designation does the plan actually put on your property? What is it designated as?

Mr Jylha: The assumptions in the plan are wrong in the first place. They are saying that it is, like I mentioned, seasonal residence, and it states in the land use that for Secord township—I'm trying to think of the exact wording that they use—severances, even infill, shall be discouraged. I can understand that for the west part of the township, but the east half is the original highway and that's where all the major permanent residences are. One township can do it and Secord, in the middle, can't do it. So that was my objection to it.

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Mr Murdoch: I'd like to thank you for coming here too. I think it shows that we do have a problem, all of the people who have been coming here. It's not only our problem; it's been a problem for some time. I heard somebody say, though, there haven't been any severances in unorganized townships since 1967. That can't be right.

Mr Bisson: No, no.

Mr Murdoch: Okay, sorry. I missed that. That's all right, then, because there have been some. I think the previous government tried to tighten things up, whatever they wanted to do. Who's the member in your riding? Is

it Shelley? I think you should work with your member and also with us. It's important to point out that our policies are draft. I think we can change some of that and look at some of these concerns.

Interjection: Write that down.

Mr Bisson: Oh, that gives us all hope. That gives us hope.

Mr Murdoch: Well, sure it does. This is why we're here, to listen to this, and I think you've brought up some very good points along with the other people here. What I encourage is that you work with your member and they work with us. We have to solve this problem. I mean, it's not something that's just come up today; it's been around for a while in the unorganized townships. I certainly would like to listen to the comments from the members from the north who represent the ridings and find out if we can come up with a solution. We have a chance to do that right now.

Mr Bisson: You guys said you were going to abolish the act.

Ms Martel: That's what you told those people.

Mr Murdoch: We did; 163 is gone. Now we have Bill 20, which hopefully will come into force some time. There will be some policy statements with it, and in those policy statements hopefully we can address your concerns. This is why we're here. This is why committees go on the road, to listen to people like yourself, to find out these concerns. As I say—I'm getting a bit of heckling across—I'm trying to tell them we should work together on this and try to solve the problems that are out in the unorganized townships. They haven't been solved, obviously, for a while, and not anybody else's problem. All of the parties probably haven't taken the bull by the horns and straightened this out. I think we're going to have to do that.

Shelley, sure, I'll work with you on this. I think we have to look at the policy statement and see if we can do something with that. With the bill changing "have regard to," I think we should be able to work with it that we can help you out.

The Chair: The questioning now will move to the official opposition.

Mr Gerretsen: Of course, just for the record, they were going to abolish the act, abolish 163 completely. We, as Liberals, said, "No, we're going to change it." They have actually changed it a little; not to our liking, but they're on their right track.

I'm just trying to get a drift of what's going on here. How far away do you live from Sudbury, where this property is located?

Mr Jylha: It's 19 miles from here and you can work that into kilometres, if you will, sir.

Mr Gerretsen: No, I'm a mile guy too. I take it that until you get to your township there are official plans in place and people can get severances of fairly small areas. Then when you get into your township and beyond there are fewer people than there are from here to Sudbury, I take it.

Mr Jylha: Yes, very few.

Mr Gerretsen: In effect, the severance requirements become a lot more stringent.

Mr Jylha: Exactly.

Mr Gerretsen: That doesn't seem to make any sense to me whatsoever. I mean, it's obviously an attempt by the government, the bureaucracy, the planning community, whoever the heck these people are, to try to get people as much as possible in this great big beautiful country of ours, where we've got—

Mr Bisson: It's called national unity.

Mr Gerretsen: Just a minute now—where we've got 2,000 kilometres from one end of Ontario to the other. We're all trying to get people into either cities or townships by infilling them—municipalities, villages etc—but we don't want anybody to live outside any more. That's what it sounds like to me.

Mr Jylha: Apparently they don't realize that it's cheaper for the province if we do live outside.

Mr Gerretsen: Let me ask you this. Let's be reasonable about it. You've got a 150-acre property. It used to be a farm.

Mr Jylha: Yes, a very small farm. There's not that much cleared and a lot of that acreage is not livable even, except for the mountain goats.

Mr Gerretsen: Would that sort of describe the whole area of where you live pretty well? It's not A1 agricultural land?

Mr Jylha: No. Basically, it's not.

Mr Gerretsen: Okay. Would you be happy, let's say, if you had a 50-acre severance requirement so that you could cut the property up into three parcels? Would that make it more saleable for somebody that doesn't want to live in the city to go out there and buy one of these properties and put a house on?

Mr Jylha: Certainly, it would. It would give them acreage, something to roam around, because that's what most of the people wanting to move out want, is a little bit of freedom. Somebody mentioned that he wants a riding pony etc. With that much acreage you would be able to do that.

Mr Gerretsen: Well, that makes real common sense to me, what you're saying there; not this revolutionary common sense, but real common sense.

The Chair: Thank you, Mr Jylha. Even as a last-minute stand-in, you did an excellent job. Thank you for your presentation this morning.

Mr Jylha: Thank you.

TOWNSHIPS OF COSBY, MASON AND MARTLAND

The Chair: Our last presentation this morning will be from the townships of Cosby, Mason and Martland. Good morning, folks. We have 30 minutes for you to divide as you see fit between the presentation and question and answer period.

Mr Claude Mayer: Thank you. My name is Claude Mayer, reeve of Cosby, Mason and Martland, and with me is my chief administrative officer, Jody Lundy.

I will first situate Cosby, Mason and Martland and talk about necessary minor amendments to our official plan, while Jody will speak about committees of adjustment.

Cosby, Mason and Martland is part of Sudbury East. The Sudbury East you've heard this morning we were speaking about is part of, but not the total, Sudbury East where Shelley Martel is our representative as member of Parliament.

Cosby, Mason and Martland is the unification of three townships. The major village of the three townships is Noëlville. There is only one other concentration of houses, and they are situated in Monetville, about 15 kilometres from Noëlville. The townships are situated at the far south of Sudbury East, bordering the famous Rivière-des-Français, French River. It is an hour's drive from Sudbury by Highway 69, a little over an hour from North Bay by Highway 17, and a three-and-a-half-hour drive from Toronto by Highways 400 and 69. Initially I had written four and a half hours, and my chief administrative officer asked me if I was driving a Model T. There is no doubt that the beauty of the French River and all the other lakes that surround it makes it a very beautiful touristic region.

The strengths of Noëlville and its regions were forestry, farming and its waterways for the tourists. That was the past. The beautiful pine and maple trees, which we thought were going to be there forever, have gradually been cut. Farming on our class 3 or 4 agricultural lands does not suffice for the farmer of the 1990s. The 160-acre lots, which consisted of a little over 30 acres of farmable land where houses were built, is generally abandoned today. The rivers, affluent with fish in the past, are not offering to tourists the same attraction. But all this is the past and can be changed with proper legislation through Bill 20 that will permit us to promote growth, physically and economically, while still protecting the environment by streamlining the land use planning and development system through amendments related to planning, development, municipal and heritage matters.

Noëlville and its surroundings have a lot to offer. We still have the beauty of our environment, the space to offer to a clientele that would like privacy, be able to get outside in the morning and breathe clean and fresh air, to rest quietly in their seasonal or permanent homes, enjoying the scenery, or simply being away from the stress of city life. For that I need your help. I need some clarification on certain parts of Bill 20 that will allow my community to grow based on sound planning structures while respecting our environment.

Cosby, Mason and Martland has its own approved official plan and a zoning bylaw. Although when written it was consistent with provincial legislation and policies, in the application we found that it has prevented growth through the small details that were inserted without thorough consideration, and I will give you some examples.

Our official plan prevents creation of a lot in the village of Noëlville unless it is connected to the sewage system. The village is defined encompassing one square mile, while the sewage system is hardly one eighth of a square mile due to financial constraints during construction. Consequently, a proposed lot beyond the one-eighth-mile sewer line still in the mile-defined village cannot be permitted. This is an example which would require a minor change in our OP to permit the creation of a few lots in the village area itself.

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Another example deals with—and you've heard that word—"infilling" policy. In our official plan we have been so rigid as to specify 150 metres between two

existing non-farm residences before a lot can be created. This specific number makes our official plan identical to the official plan of the unorganized townships, while the organized municipalities in Sudbury East, without specific metre requirements, have a little more flexibility. Believe me, when the government cut some of our grants, it was also understood that we were to have more flexibility and more responsibility. I need growth in my community in order to compensate for the lack of funding.

In subsection 4(2) it is specified that all powers of the minister may be delegated to planning boards, with the exception of the authority to approve OPs and OPAs and the authority to exempt such approvals. Subsections 17(1), (2), (3) and (4) allow for regional councils, district councils and county councils to approve OPs and OPAs and the authority to exempt such approvals.

Why only these levels of government? We have a planning board that is proven and competent; in fact, so competent that the Minister of Municipal Affairs and Housing recently conferred upon it consent-granting authority. Is this government trying to say that a regional council, a district council and a county council are more competent and can express better judgement than Sudbury East planning board and its staff regarding OPs and OPAs?

It is therefore only logical that planning boards that provide land use planning advice and have the authority to grant consents should at the very least have the authority to approve official plan amendments while having regard to provincial legislation and policies. To take this issue a little bit further, and if the amendments are really minor, why can't a municipal council be delegated the authority for those minor changes while having regard to the same provincial legislation and policies?

Cosby, Mason and Martland, like many other organized communities in the north, needs an act that will promote economic growth and protect the environment. I am positive that this government does not want my community to slowly disappear. I, with my council and my staff, have studied the past and am looking at the present while focusing on the future. We know our region. We know what has to be done to permit land growth. We know that the needs of yesterday are different than those of today, and likewise are different than those of tomorrow. Planning is an important tool in the process of our economic growth. Every region has its differences. The north is not the same as the south. But each offers different advantages, and yet faces different difficulties. They should therefore be treated differently respecting planning, development, and municipal and heritage matters.

I thank you in advance for your interest and for your consideration on those important matters to us. I am now asking my chief administrative officer, Jody, to address you.

Miss Jody Lundy: Good morning, Mr Chairman and members of the committee. Thank you for giving us this opportunity to address you this morning.

Our community is part of the Sudbury East planning board, but one thing our council has decided they would like to look at is to form a committee of adjustment. In

speaking with the planning board and staff, they feel that this is appropriate to consider. Our land use advisory committee has undertaken a detailed and lengthy study about committees of adjustment—what they do, what their role is—and in that study they have been looking at Bill 20 and the provisions for committees of adjustment and how those provisions will affect our newly formed committee.

We've paid close attention to the bill, as I've said, and we've scrutinized sections 45 and 45.1 of the bill. In general, we are very supportive of the provisions contained in these sections. They can serve the purpose of creating a very strong political or non-political committee of adjustment, depending on the wishes of the local municipality. Clauses 45(13)(a) and (b) present two scenarios for committee makeup and offer different appeal procedures in each case. This gives local councils options they did not have before and allows local decision-makers to determine the extent to which they want to be involved in minor variance matters.

To further illustrate this point of increased options for local councils, we can turn to subsection 45.1(3). This section, which applies if there are no council members on the committee itself, allows each council to decide, for their particular community, and secure this decision by bylaw, what they feel should be the appeal mechanism for the committee of adjustment decisions. With this, council can be the appeal body, or not be involved at all, or perhaps even a mix of both. Such provisions in legislation clearly reflect our demands for increased ability to make decisions that affect local municipalities at the local level.

Though these items are positive and will help our council and committee of adjustment, we do have some concerns with two items in section 45.1. Firstly, subsection 45.1(21) provides that council shall make its decision on a request to review a decision of the committee within a reasonable time. We feel that it is appropriate for this section to be more specific. All throughout this piece of legislation, clear time lines in the planning process are given. Why, then, should this specific provision be included? I certainly hope that it wouldn't happen, but without a definition of what a reasonable time is, there is a potential to unnecessarily stall the review of a committee decision and this is likely to be at the inconvenience of the applicant and in turn can turn the community off of the process; they may not be inclined to come for their minor variance at all and may disregard the planning process altogether, and I don't think that's what any of us want.

Lastly, subsection 45.1(39) needs to be expanded. Presently in the bill, if a decision of the committee of adjustment is forwarded to the Ontario Municipal Board by a municipality, the municipality pays the applicable fee. If this request is initiated by the municipality on a case-by-case basis, or as a standing practice and this is done by bylaw, the municipality should, indeed, bear these costs. However, if under subsection 45.1(12), the applicant or any other person or public body can initiate a request to council, and if this request for the decision review leads to the OMB, the cost to the board should be payable by that person or group making the request. This

is particularly important where bylaw, the council is to review, on a case-by-case basis, decisions of the committee of adjustment and decide which are to be forwarded to the OMB. If council decides a decision should not be forwarded to the board, yet an outside individual or group makes such a request, why should the municipality bear the cost and not the applicant?

What we are suggesting is a very specific wording change to subsection 45.1(39) to read as follows: "The fee established by the municipal board is payable by (a) the municipality that forwards a decision of its committee of adjustment that is to be heard as an appeal by the board under this section; or (b) the appellant, if such is the applicant, another individual or public body and the request is made under this section."

I hope you will take these suggestions into consideration when you are amending the bill and we thank you very much for your time today.

The Chair: Thank you very much. We've got six minutes per caucus and the questions this time will start with the government. I'm looking for nodding heads.

Mr Galt: Thank you for the thoughtful presentation, it's been indeed very interesting. The committee of adjustment appeal to council—it's interesting that you're feeling reasonably comfortable with this provision along with some suggestions. Prior to hitting the road, there was a demand by the third party that we amend this without even hearing from people in the north. Thank heavens we did not listen to those pressures because it's interesting to see that it is different in the north and the needs and—certainly in rural Ontario, I think we're going to find that maybe there is a lot of support for this part of the bill.

I guess I'm coming around to this severance problem to query you on. It's an ongoing thing and it's come up repetitively and obviously it must have been in the hearings of bill 163; it must have been mentioned at that time and was not recognized or addressed. I guess I'm coming to a very different question here. In relating to northern affairs, we've heard many times over this morning that the south is not listening to the north, and I would think that would be a role of the Ministry of Municipal Affairs. Is this a ministry that is not functioning and looking after the needs of the north?

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Miss Lundy: I think the ministry, their advisers and particularly their planning staff are very helpful to the communities. I know in our community we're part of the planning board, and the planner on staff does work for us, but he's not in our community on a daily basis. I can deflect questions to him and also to the ministry. I think that's a good opportunity that we have which, if we had our own planner on staff, might not be as available to us. I think the ministry staff here in Sudbury—I don't know about the rest of the province—have been very open to listening to our concerns and I'm confident that they do bring the concerns back to Toronto for us.

Mr Galt: I'm not quite clear here; are we talking municipal affairs now or northern affairs?

Miss Lundy: You'd asked me about municipal affairs, I believe.

Mr Galt: I meant northern affairs. Did I say municipal?

Interjection: It's Northern Development.

Mr Galt: Northern Development; sorry, my terminology. I would think they would be here on your behalf.

Miss Lundy: They don't deal with us on planning matters. We deal with the planners at Municipal Affairs. Northern Development and Mines deal with us in different issues. I'm sure if we had concerns, we could address them through them to take to Toronto, but it's not something our municipality does on a regular basis.

Mr Galt: For some reason or other, I was under the impression that they were an umbrella organization pulling everything together for the concerns of the north.

Miss Lundy: No.

Ms Martel: Not on planning, they don't have planners.

The Chair: Mr Ouellette.

Mr Jerry J. Ouellette (Oshawa): Thank you for your presentation. Just a couple of questions: You mentioned reasonable time but you didn't give a recommended time that you think is reasonable. Do you have any suggestions?

Miss Lundy: I guess it would be very difficult to limit it to the 20 or 30 days that are mentioned throughout the rest of the legislation, because there's not always a council meeting within 20 or 30 days of receiving an application. I would say two months maximum would be a very reasonable time.

Mr Ouellette: Sixty days.

Ms Lundy: Yes.

Mr Ouellette: Do you think that would be acceptable for all communities?

Miss Lundy: I would think so, because in the summer months we may only have a council meeting once a month.

Mr Ouellette: On pages 3 and 5, I'm just interested about the heritage matters. Could you expand on that just a little bit, what you're referring to there.

Mr Mayer: We do have, for example, if you looked at the French River, this is famous, if you want, because of what happened there even in the past. This I think has to be brought in. We also have, when we speak of heritage matters, certain things in our municipality that need to be kept, because that's the story of the past that has to be brought to our own children for the future. So these are the things that I'm speaking of.

Mr Ouellette: So your local community will be able to address those issues and determine what it was.

Mr Mayer: Yes.

Mr Ouellette: One other quick question would be on the septic problems outside the one-eighth-mile area. Are there any problems in those areas at all with the septic system?

Mr Mayer: To my knowledge, definitely not. We do have our own, of course, as it is expressed. It's not even working at full capacity. There is no problem outside of that because we have plenty of space, and if the space is there, it's not a concern.

Mr Ouellette: Okay.

Mr Hardeman: I just wanted quickly to go to the section where you refer to the counties and regions where they get the exemption from having the plan approved by the minister. Under subsection 17(9) of Bill 20, it does give the minister the authority to exempt others, which

could in fact be a planning board. I think there's some relationship between the counties and regions. Not all counties are exempt if they do not presently have an approved plan and if they do not presently have a structure in place that would convince the minister that they have the ability to do good planning and to follow the provincial policy statement. I think it would point out that if the minister, upon reviewing your planning board, felt it appropriate that you should have the authority to approve amendments to that plan, that would be allowed under Bill 20.

Mr Mayer: My point was that we would like that to be the planning board because they know what our needs are. When we want changes like these, which are minor, then it would be only logical that we go to them.

Miss Lundy: And we would like to see it specifically included in the wording, along with county, regional and district municipalities.

Mr Hardeman: I think one of the concerns that was expressed was the appointment of the planning boards and how they are in existence, and if the wording was that all planning boards automatically receive that authority, it may very well raise some concerns in some areas. I think that's the reason for that exemption.

The other issue I think you raised was the change in your official plan which required everyone in the town or in the village to be hooked up to municipal services. By eliminating that provision in your plan, do you not see a concern that in the future, as your infrastructure is expanded to meet some of the requirements in the older part or in existing development, you would make people pay twice for services?

Mr Mayer: Not necessarily. I think what I would like to do right now is to simply say that the village is only the definition of a village within the OP. So if we could say that the village follows the sewage system as it goes along, then of course technically, according to the OP, the village would be extended. For me that would solve the problem. Then we could create lots as we go along with the sewage system. That's the only point there.

The Chair: Thank you. Moving to the official opposition. Mr Lalonde.

M. Lalonde : Merci, Monsieur le préfet et Madame Lundy. Tout d'abord, je veux vous féliciter pour votre présentation et pour le temps que vous avez pris pour préparer votre présentation. Vos commentaires sont précis, et je reconnais vos inquiétudes. Est-ce que vous croyez, Monsieur le préfet, que tous les changements apportés par ce nouveau projet de loi 20, qui vraiment apportent des changements à la Loi 163, vont stimuler l'économie dans votre région ?

M. Mayer : Je pense qu'on a mentionné à plusieurs occasions l'aspect de pouvoir du moins grandir comme village, si on peut utiliser ça, soit plus de maisons. Je comprends les inquiétudes qu'on avait dans le passé en disant : « Si on s'étend, éventuellement, dans 50 ans, si on va offrir les services d'égouts, ça va nous coûter plus cher ; si on va offrir les services de chemins, ça va coûter plus cher. » Je comprends ça.

Mais ce dont je parle ici au niveau de permission de création de « lots », dans ma vision, c'est toujours dans des chemins qui sont déjà existants qui seront toujours

entretenus. Ce sont des régions où nous n'avons pas chez nous, du moins, de territoires d'agriculture aussi fertiles que certains territoires dans d'autres régions, soit dans l'est ou dans le sud de la province. Alors, je pense qu'on n'a rien détruit, mais on encouragerait quand même cette possibilité de grandir comme communauté. Je pense que c'est très important.

Je regarde le montant de maisons et j'ai peur de dire qu'il y en a moins aujourd'hui qu'il en avait hier, puis cela m'inquiète beaucoup. Je pense que dans le projet de loi 20, on commence à y toucher en espérant qu'on serait peut-être un peu moins restrictif sur certains points.

Mr Lalonde: Knowing that our former Minister of Municipal Affairs married a girl from Noëlville, I'm sure that when he sees the "article" in there on page 4 that says the decision for approval in your area will be left to the ministry, not giving you the authority to approve official plan amendments or zoning bylaws—it would expedite the process if the approval or authority were given to your municipalities. I'm pretty sure the government will take this into consideration, because it is very important.

The fact that you have to go to the ministry's office, like my colleague Mr Gerretsen mentioned a little while ago, sometimes it takes three months before the people at the ministry's office even open up a file. In this case it concerns you, you know what the needs are in your counties, so I will appeal it in that if you are an organized area, the approval process should be given to your municipalities.

I believe that my colleague Mr Hoy also has some questions.

Mr Hoy: I wanted to talk a little bit about the committee of adjustment and the membership that might be on that committee as well. In my area there is a rather vigorous approach to amalgamation and annexation going on among municipalities. It's preliminary, but of course people are trying to find out—as they say, "Who are we going to dance with tomorrow?" That's the analogy they use. They're looking for partners.

Some of the conversation these councillors and reeves, mayors, have had with me is that their job is currently part-time in the rural areas and they can satisfy the workload that way. If the municipalities take on a larger area, they see their time as being infringed upon more and more, maybe even becoming full-time—that begs the question whether it will save any money. But I guess my point is, they feel that committees of adjustment should not perhaps include any council members because they simply won't have the time to hear the complaints or points on minor variances. Do you have an opinion on that?

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Miss Lundy: The one thing I like is that this bill leaves that decision up to the local municipality, to choose whether there is a councillor or not. I think in a situation where there are part-time councillors or part-time politicians and they don't want to increase their workload, the option is there that they can find willing and able people in their community to volunteer to take on this role. But I appreciate that the decision for that is left in the hands of the local municipality.

Mr Mayer: I can add that we are studying it very positively. We've looked at both options, and it seems to me the councillors will be out of—there's going to be a group of citizens taking over.

Mr Hoy: We've had a number of presentations that say it should be that way, that the people making the rules shouldn't be the judges. But this other point that I made about time and your request that things be done in a timely fashion, in combination with the other remarks, would lead me to believe that councillors should not be on the committee of adjustment.

Mr Gerretsen: What's the size of your municipality? How many people are there in your municipality?

Miss Lundy: Summer or winter?

Mr Mayer: It depends: close to 1,500 in winter and 5,000 or 6,000 in summer.

The Chair: The questioning moves to the third party.

Ms Martel: I thank you both, Claude and Jody, for coming in today. Claude, we've known each other for a long time. People should know that Claude and I ran as candidates in the 1987 election. Obviously, he ran for a different party, so he doesn't have to support me here today in the questions I'm about to ask, but let me try and get a couple of things on record, and perhaps you can help me with some of these questions and answers.

Would it be fair to say that Bill 163 was a big issue in the last election campaign in Sudbury district east?

Mr Mayer: Yes.

Ms Martel: You'll get your turn, planning staff.

Would it be fair to say that the position I took was very unpopular in Sudbury East, that I would prefer to keep the bill and amend it, and keep the planning board and deal with some of the concerns people had through the planning board and the bill that was in place?

Mr Mayer: Yes, and I was present at the meeting.

Ms Martel: Would it be fair to say that the Tory candidate ran around Sudbury East and said that under a Mike Harris government, Bill 163 would be abolished?

Mr Mayer: I think I've heard that.

Ms Martel: Would it be fair to say that the Tory candidate also ran around Sudbury East, and I think he had a letter from Mike Harris that said that a Tory government would also abolish the planning board.

Mr Mayer: I will let Brian answer that this afternoon.

Mr Baird: If that Tory candidate had been elected, we would hold him accountable.

Ms Martel: Now we see, if I'm correct, the position that we have before us now is that we have a Planning Act, and one presenter who came before us already, Heidi Ralph, who is a member of the planning board, has told us that under the bill that is before us there will not be any additional severances in the rural area, the same area that people were concerned about.

Mr Mayer: It is a concern to me as well. I think there should be more. I'll be—sorry about that—speaking to you again this afternoon, changing hats, and I will be mentioning something in that respect.

Ms Martel: Would it also be safe to say that even though the Tory candidate said he was going to abolish the planning board, we still have the planning board in place and we are not going to be giving, under the legislation as it's currently written, the planning board even the right to deal with amendments to OPs or OPAs.

Mr Mayer: I would like the planning board to have more power in that respect. I think as a municipality we are too small to have our own planner. We need to unite in that sense, but we should not have to go, necessarily, to Toronto for changes.

Ms Martel: It looks like you still have to. That was one of the reasons people voted for the Tories; they thought they weren't going to have to. That's what the Tory candidate promised them. To conclude, Mr Mayer, would you think that people who voted and who listened to the Tory candidate in the east end of the riding, it's safe to say to everyone here, did vote for the Tory candidate probably on this issue and really got led down the garden path?

Mr Gerretsen: As they did elsewhere in Ontario, I might add.

Mr Baird: If that Tory candidate were here to defend himself, I wish he were sitting right here.

Mrs Martel: Well, where is he? I wish he was here. I'd like to see him explain himself. I wish he was here explaining himself. My goodness.

Mr Gerretsen: He was here at 7:30 this morning.

Ms Martel: People voted in overwhelming numbers for him and they were deceived in Sudbury East. That's what happened. Would that be fair to say, Claude?

Mr Mayer: I didn't answer that one, but I must say that Shelley Martel is a friend of mine. So even if we ran one against the other, we're still good friends.

Mrs Fisher: Good for you.

Ms Martel: Thanks, Claude.

The Chair: Any other questions?

Mr Bisson: Just very quickly, it seems that part of the—

Mr Gerretsen: That's why you're a nice guy; you're a Liberal.

The Chair: We're all very non-partisan, are we?

Mr Bisson: Part of the debate that we're having here under Bill 20 is the same one we had under Bill 163: Who does planning? It seems to me part of the problem we've got is that on the one hand the Conservative government is saying they want to lessen the overlap, they want to lessen the duplication that occurs within the bureaucracies of all the various functions of ministries and stuff, but what we're sort of encouraging through Bill 20, by throwing in more to local control, is that there is going to be even more duplication, more overlap. Is there another way of doing that? Is there a way that we're able to do local planning so that's consistent with the needs of local municipalities and ratepayers that's short of giving every municipal council the ability to do planning on their own? Couldn't we look at a regional or district model with representation from municipalities rather than where we're going now? It seems to me that we're going to be employing, as we do now, planners in each of those communities, planning departments etc. Wouldn't there be some efficiency of scale if we tried to do it on a regional or district basis?

Miss Lundy: I think that's the reason that the council in our municipality supports the planning board, because we're not each 1,200 population municipalities having our own planner or our own planning consultant on retainer; we're doing it jointly, and the only thing we'd

like to see is that planning board given more authority and more responsibility for local matters so that we aren't doing half of our planning business with the board and half of our planning business with Toronto and then the two of them are phoning back and forth to confer on cases and what's in ROPs.

Mr Bisson: It seems to me what we should be doing in the end, either on a regional or district level, is giving the planning boards the authority to make the decisions. But at the same time, being consistent with the policies of the provincial government clearly spelled out in the act and in regulation it seems to me would deal with a lot of this problem. But I don't see Bill 20 doing that. I see it as a sort of continuation of the same problem.

Mr Mayer: It will depend on the changes that will be brought up by Bill 20. I have a feeling at times—and it's way before Bill 163, maybe, to correct some of the mistakes to the south—I said at one time if we were to build a tower in the middle of Noëlville of five, 10 storeys high, we would be permitted that, but that is not what people want, because we have this space to offer to them. They don't want to be there. They could live in Sudbury, for that matter. I think it's only a matter of changing certain things, and you have heard this morning about infilling, about merging. If that can be corrected, then it's no problem.

Mr Bisson: It seems to me what we're doing is we're going around the issue rather than going right into it and dealing with it. You know, the real issue is, you have to allow local planners the flexibility to be able to deal with local planning concerns, but it has to be done in some way that is consistent with the needs of the community through the region and consistent with the policies of the province. Thank you.

The Chair: Excellent timing—

Mr Bisson: Excellent comments, I thought you were going to say.

The Chair:—right at 30 minutes. Thank you very much for taking the time to make a presentation before us here this morning. That being the last item on our morning agenda, the committee stands in recess till 1:30 back in this room.

The committee recessed from 1148 to 1332.

SUDBURY EAST MUNICIPAL ASSOCIATION

The Chair: Seeing a quorum present, we'll call the meeting back to order and proceed with our afternoon session. Our first presentation this afternoon will be from the Sudbury East Municipal Association; an encore performance. Good afternoon.

Mr Claude Mayer: Good afternoon. Mr Chairman and members of the committee, do not adjust your set. I am alone. Gone are the days when you could order someone to be here. The two persons who were here were reeves of neighbouring municipalities. They are the ones working; when you're retired, you're not working.

Again, my name is Claude Mayer and I am chair of the Sudbury East Municipal Association. You've talked so much and you've heard so much about Sudbury East, that maybe we should give you a chance to see, in this slide presentation, what Sudbury East is.

Across, almost in the middle, you have Highway 17, and on this side, the west side, we have Highway 69. Sudbury District East is comprised of nine organized townships and 23 unorganized surrounding townships. It borders the regional municipality of Sudbury, the district of Nipissing and the district of Parry Sound. It covers a land area of approximately 954 square kilometres, and the population residing in the area is approximately 12,000; a lot more in the summer.

My presentation today is on behalf of the organized townships, where two of the four organized townships are part of the Sudbury East Planning Board and two have chosen not to belong. However, we have common requests and concerns.

To the far west we have the township of Hagar. It's main town is Markstay, which is located on Highway 17, approximately 40 kilometres east of Sudbury. Markstay is sometimes referred to as a bedroom community from where many people commute to Sudbury for work.

Further east is the township of Ratter and Dunnet. I think one of the presenters was from Ratter and Dunnet. Its main town is Warren, which is located on Highway 17—I have 60 kilometres but he said a little bit more—65 kilometres east of Sudbury. The main places of employment are in agriculture and forestry industries.

The townships of Casimir, Jennings and Appleby are located on Highway 535, which connects to Highway 17 at a midpoint between Sturgeon and Sudbury. It's main town is St Charles. The main places of employment are in the agriculture, forestry and mining industries.

The townships of Cosby, Mason and Martland are in the southeastern part of Sudbury East. Of course, its main town is Noëlville, situated at the crossroads of Highways 535 and 64. The main places of employment lie in the agriculture, forestry, mining and tourism industries.

When one looks at Sudbury East, one can see a north corridor and south corridor—and here we are this morning talking about southern Ontario and northern Ontario; we have in our own little district a north and south—one linked to Highway 17, while the southern part is linked to Highway 69. Yet we have a major common concern: growth. In Bill 20, what can help us grow and what can prevent growth in our organized communities?

Bill 163 required municipal planning decisions "to be consistent with," while Bill 20 only requires that municipalities "have regard to." This notion of having regard to brings more flexibility to an official plan. Though we realize that this committee was not given the mandate to review the draft policy statements, it must be mentioned that having regard to the policies may make growth and development easier. However, there is a need for a clear, precise and explicit definition of "have regard to" which would permit growth. We as municipalities can only compensate for the lack of funding by having more houses built in our area, remembering that all is done within good planning and common sense development.

Our big barrier to growth lies with the infilling policy. We as municipalities know what is best for us and for the people we are representing. We want to preserve agricultural land, although we have no class 1 and class 2 agricultural land in any of our townships. We want to promote growth physically and economically, while still

protecting the environment, by streamlining the land use planning and development system. Although Bill 20 recognizes that municipal governments are the appropriate level of government to manage the planning processes, it should reflect more flexibility in the infilling process. Provincial policies must be regarded not only in the preparation of an official plan or plan amendments but in all subsequent implementing activity, whether a consent, plan of subdivision, rezoning or minor variance. Once the official plan and its amendments have reflected provincial policy and have been approved, then the OP should replace the provincial policy statement as the document guiding development. Without this type of flexibility a policy-let system is not achieved at the municipal level.

Another barrier to our growth—again you've heard that this morning—related to infilling is the merging of big lots. In all of our municipalities, our forefathers had, in most cases, 160-acre lots. Less than a quarter of the land was farmable and sufficient to operate a farm in those days. As progress came along and things changed, those farms were not big enough for a farmer to make a living, so neighbouring farms were bought. Although all those farms had a different parcel number—and I'm not blaming any party in this particular case—a law was established in 1976 to merge those big lots into one if the owner bore the same name, even if it was different parcel numbers. In almost all of the cases, this was unknown to the owners themselves. In came the policy of infilling and those lots not being farmed or used can't be split today. That is a prevention of growth.

As mentioned earlier, farms were once the basis of our existence. The first settlers who came into our region—in fact, we celebrated 100 years this summer for some of the settlers—settled on farms. They did not need very much to make a living. As years went by, the farm was sold to a son or another one was bought. Generally today, the second or third generation of farmers plow the land but must find work elsewhere to make a living. Yet they would like to give to their son or daughter a lot where a house could be built. In many cases, infilling prevents such development.

1340

Subsection 45.1(39) deals with fees payable by a municipality specifically for minor variance. The Ontario Municipal Board can recover the costs of conducting the hearing from the municipality through a fee, with the option of recovering additional actual costs where they exceed the fee. Planning boards may be delegated the authority of the minister in regard to zoning matters, and whereas a planning board may be delegated the authority of the minister pursuant to subsections 45(1) to 45(4), minor variances, the fee payable by the municipality to the OMB is applicable. Thus, the only appeal mechanism for a planning board decision about minor variance is to the OMB. In this legislation, costs of this hearing are payable by the planning board.

Unlike municipal councils, the planning board does not have the option of choosing whether to refer a decision review to the OMB if an appeal is requested by the applicant or another person or group. The planning board must pay costs for the review of its own decision, and since the municipality participating in the planning board

must pay the operation costs of the planning board, the financial burden indirectly falls in our hands.

It would be more logical to have the individual wishing to refer the matter to the OMB be responsible for all costs associated with such hearing. Would that not be a type of user fee which this government strongly supports? We as municipal councillors realize that we cannot administer today as we did in the past, that moneys will not be there as before. This is common sense and sound administration.

In closing, I would like to thank you to have given me, a second time, the opportunity to speak to you on behalf of all the municipal councils, and those that are not here, of Sudbury East regarding Bill 20.

Returning to the "have regard to" operating clause as it respects the principle that communities should plan the form and nature of local development while determining how provincial interests can be achieved within local circumstances is very positive. We as municipal councils are fully aware of what we need to do and plan such that the advantages and beauty of our land be still there tomorrow for our children, and we hope, through this piece of legislation, you will help us achieve our goals.

The Chair: Thank you, Reeve. We have six minutes per caucus for questioning this time, and we start with the official opposition.

Mr Gerretsen: Mr Mayer, this morning we had a presentation from an individual who made the same point that you made with respect to the infilling policy and with respect to the policy where farms, in effect, were joined. I agree with you; we had the same problem in southern Ontario as well, where separate parcels that had existed for, in some cases, 40 or 50 years were joined. Of course, now the law for any severance that has taken place since then has changed, in that "once a severance always a severance" applies. But it didn't apply for the lots that were joined together at that point in time.

Would you agree with the notion that although the infilling policy is a good policy for some people, for other people who basically want to get away from urban life and live out in the country, really the notion that the larger parcels of land should be chopped up into manageable acreage—I don't know whether it's 50 acres or whatever—is a reasonable policy for a government to adopt?

Mr Mayer: If I can use an example to answer that one, I know of a friend who for some odd reason had a 360-acre lot. The houses are not there any more. He wanted to split. Because of the infilling, because the distance of a house up on the other side to the house on the other side is too far, then he is not able to split according to the law. So in my point of view, if there were houses there before, if that was a lot which has a different parcel number, that for me is what I'm calling should be common sense, and we should accept that.

Mr Gerretsen: Administratively, what kind of remarks have you heard back from the bureaucrats, or whoever deals with these applications, as to why it's not being allowed? What reason have you been given as to why this isn't being allowed?

Mr Mayer: I only have to go back to those that made the regulations, if I can say "regulations," or the policies

outside of the—for me, they don't want to commit the mistakes in the north that they may have done in the south. I know they're looking at 50 or 100 years down the line and saying: "Okay. In 100 years those people would like services. We will always keep those roads open."

I'm not speaking of someone that's going to end up totally at the end of a territory back in the woods to create a lot; that is not what I'm speaking of. Those are lots on the highway or on the main roads of my municipality, which therefore would permit more houses. It's not going to take away the cost, I believe. Unfortunately, we're speaking of sewage systems. They'll have their 80 acres. I think that's enough.

Mr Gerretsen: What types of services would rural properties like that require? Are we talking about garbage service?

Mr Mayer: That's one. But then, you know, if there's a house over here, another one five miles away, and you have to go out to the five-mile one, it doesn't cost any more to pick it up. That's one point. For me, that's the only one.

Mr Gerretsen: And bus service for school children, I imagine.

Mr Mayer: Yes.

Mr Gerretsen: Have you heard the argument here that we get down south quite frequently on these kind of severances that if you allow too many entries and exists on to a major road, which I take it Highway 17 obviously is between North Bay and Sudbury, in effect you're interfering with the transportation network in that the entire countryside from here to North Bay could have a house every 10 or 15 acres on it?

Mr Bisson: I've heard MTO make that argument.

Mr Gerretsen: MTO has made that argument for years.

Mr Mayer: I thought that on many of the highways they do have some—maybe not highways but roads, on the inside, where there's only one exit on the highway and there are two or three houses that could join there. What I'm speaking about in these mergings of lots are usually not on the highway. They are in secondary roads.

Mr Bisson: Les rangs.

Mr Mayer: Les rangs. That's right.

Mr Gerretsen: The other comment, and I didn't ask you this question earlier: What we've heard down south from just about everybody, and I'm talking about developers, general public, all kinds of presenters, with the exception of AMO, even some municipalities—I can remember the municipality of Etobicoke, for example—is that final appeal from a committee of adjustment decision ought to be to the OMB.

Somewhere along the line, if for political reasons either a council or a committee of adjustment has turned something down—everybody knows everybody else. I know what it's like—there ought to be at some point in time a mechanism where the final level of appeal, if need be, and all of us should hope that it won't be necessary, will be to an independent organization such as the OMB. That's been one of the criticisms of the committee of adjustment matters in this bill, that the final level of appeal is not to the Ontario Municipal Board. The only

organization that's spoken in favour of it is AMO. How do you feel about that? Your brief really didn't address that particular issue.

Mr Mayer: If I read it well and understood it well, and it may be the case that I didn't, I understand that if the committee of adjustment is formed and there's no council member, the appeal would go to the council. I realize that when we say no, it does hurt, as politicians, and I don't think—we have been elected and we understand the future. We understand tomorrow. Some of the cases we'll have to say no; some of the cases we'll say yes. I think it's up to us to follow the law to the point that when there is a possibility, we'll help the individual. When there is no possibility or it's completely contrary to the—

Mr Gerretsen: So you're not in favour of final appeal to the OMB? You sound like a politician, you know.

Mr Baird: No name-calling.

Mr Mayer: Well, just a little bit. Others are bigger politicians than me.

Mr Gerretsen: You're the most important. As a point of information, I think it ought to be pointed out that a former Minister of Municipal Affairs, M. Grandmaître, has just joined us here in this room in Sudbury. I think he ought to be welcomed.

Mr Bisson: He's the guy that did this. He's the one that got us in this mess.

Mr Mayer: Mr Chairman, maybe I should get him to help me over here in front.

The Chair: Moving on to the third party.

1350

M. Bisson : C'est toujours un plaisir de vous recevoir devant notre comité, comme d'habitude. I guess there are two questions I'd like to come back to. One of them is the cost of appeal to the appellant proposal that you make and the other one is a question of severances, just to go back and revisit that.

On the question of severances, what it comes down to is a very simple question I have to ask you as a local municipal politician: If the government allows severances to happen at a less restricted rate than they are now—because there are restrictions about where you can do severances—and we say, okay, as a province, the government says that's it, we'll leave that in the hands of municipalities, and if the municipality wants to allow it, so be it, you make the decision. You understand as a local politician that, in the long term, there will be a cost associated with that. How big we can debate, but there'll be some cost. Do you agree? There'd be some cost in the end. I'm leading to a question here.

Mr Mayer: There will be some cost to the municipality?

Mr Bisson: In the long run, because there will be services that will be needed there eventually if there's lots of construction that goes on in that end. That's fine, provided that the local ratepayers are prepared to pay the tab, and it seems to me that's really what the issue is here, that if you allow the severances to go on at request—because I don't know how you devise a policy, quite frankly, that is—you can't have a policy that says yes to one and no to the other and then talk about provincial policies. There's no way you can do that. It's

either you have provincial policies that we're consistent with or you allow all the severances to happen.

That's what it really comes down to, and what I'm saying to you is that if what I'm hearing here is a lot of ratepayers are saying we should allow those severances to happen, are the municipal ratepayers prepared to pay the difference of tax assessment over the future years? If the answer is yes, then you allow the severances to happen. Just your general comment on that.

Mr Mayer: Okay. When we're speaking of severances, we are not speaking of thousands of those. I'd be satisfied if in my municipality we can get five to 10. That would be the maximum in the first few years and that's about all. We are already spending money for the roads in those particular areas, the one that I think of in my municipality, so it would not cost any more. We're driving by with the grader every day when it's needed. The only other cost may be involved if there are no children in that particular area, but somewhere, somehow there will always be one, I presume, so then why not—

Mr Bisson: So you're saying there's a limit. What I think you're saying then is that you would allow the severance to happen provided it's a road that is presently maintained by the municipality? If it's not being maintained, then you don't allow the severance in order to stop that. Is that what you're saying?

Mr Mayer: We don't want to create new roads technically in areas where it would cost us a lot.

Mr Bisson: That's fair, that's why I'm asking, because if you allow it to happen at any time it means to say that some of those roads, where presently not serviced by municipalities, in the end would have to be picked up by the municipality by virtue of having many families living on them.

Mr Mayer: I agree there, but I think the ones I'm thinking of anyway are within the—

Mr Bisson: I just wanted to clarify it, because as a local politician I wanted to make sure that I understood what you were telling me. So that's the policy.

The second thing in regard to the cost of appeals being passed on to the appellant if you bring something to the OMB raises a bit of a question. As it is right now, the municipality picks up the tab, but if you passed it on to—you're nodding no? Oh, I thought you were saying no; I was going to say that's new to me—it's right now picked up by the municipality. If you pass it on to the appellant, is there a danger that some of the people who have legitimate appeals who don't have the money would not be able to go forward?

Mr Mayer: I think the way it was presented this morning lies in exactly the way you've said it, that is, if it is their municipality, if it is a bylaw that says yes, we cover that, then it's the municipality. But if the municipality at one time says sorry, we went through the process and the answer is no, but the person requiring that says, "Yes, I want to go further," then I think it's only fair that that person pick up the tab.

Mr Bisson: But is there a danger that some legitimate concerns, not all of them, raised by people who may not have the money would have no other avenue? I'm just wondering, if the answer to that is there is a possibility, then it becomes it's either the municipality or the prov-

ince or a combination of both that would have to pick up the costs of the appeal, it would seem to me.

Mr Mayer: Well, there may be nothing that it may not be, but I certainly think that if people have to pay out of their own pockets, they're going to be far more careful before deciding to go to a further step and have to pay the costs; it's as simple as that.

Mr Bisson: I would just say on that, I think there is a danger. I hear what you're saying. You want to make sure that people are not just going and don't recognize that there's a cost associated and you've got to build responsibility in the decision-making process. But the problem I have is that if you go to that system exclusively, it will leave on the outside of the decision-making process many people who don't have the bucks to be able to back up their appeal if they should have one, and I think there's a danger to that. I just want to make sure that's on the record.

Mr Mayer: That's fine, but I'd like to specify that I don't think we will have that many. Secondly, if we are paying as a municipality, somewhere, somehow, some persons are paying.

Mr Bisson: Yes, it's the taxpayer.

Mr Mayer: It's still the taxpayer.

The Chair: Questions from the government.

Mr Hardeman: A couple of questions. First of all, you put forward the proposition of once the official plan had been approved that it should be deemed to comply with the provincial policy statements and that it should be the only document that would be required in planning matters. That was also a position put forward by AMO and a number of other deputants in Toronto.

I was just wondering how you envision dealing with the possibility—and obviously it wouldn't happen in the short term, but in the long term—where an official plan was approved and the provincial policy statements changed? How would you deal with if you deemed the official plan to comply with the policy statements, who would be in a position to look at that to make sure that it continues to comply with the policy statements?

Mr Mayer: Okay. We have an official plan, let's say there are slight discrepancies—and we do have some and I've expressed them earlier—then we have to make those amendments. That's not too serious. If we are not complying with the provincial policies at a future date, for example, then we would have to change our official plan to make it "having regard to." Therefore it's like anything else, we'll have to follow the law one way or the other. Who would check on that? Who would supervise that? We have to rely on the judgement of the municipal councillors, I imagine.

Mr Hardeman: The other issue you talked to was the cost of the OMB, if a municipality refers it to the OMB they would cover the cost. The cost of that is based to the applications for minor variances, and I think if we look through the process we find that the choice of whether it goes to the OMB is a municipal choice, that it could be one of three things. It could be that the council makes the decision on the appeal; or that there is no appeal from the decision of the committee of adjustment; or if the municipality wishes, they can refer it to the OMB. In that case, because they have chosen not to make that decision

themselves or not to have it go without an appeal, would you not think it's fair that the municipality would pick up that cost?

Mr Mayer: I would answer yes, because the idea was expressed this morning, if it is the bylaw that we follow or if it's the municipality that chooses to follow that route to the OMB, then therefore it should be them, not the individual.

Mr Hardeman: The last question I have is, you mentioned earlier in your presentation that you had a friend—and I congratulate you on being a politician and still having one of those—

Mr Mayer: I said one only, eh?

Mr Hardeman:—you had a friend with 360 acres that previously had buildings on it but they have merged into one parcel, and you said presently he would have difficulty getting that severed. Could you tell me what is it in your official plan that would make it difficult to sever a 360-acre parcel of land into smaller parcels?

Mr Mayer: The famous word called "infilling." It's considered one lot, there are no houses on it, and therefore the distance from the house on the left to the house on the right is beyond 150 metres, therefore you cannot split.

Mr Hardeman: In our official plan we have the same thing and we've had the infilling provision for some time in my riding. The infilling applies when you want to create residential uses in the agricultural area. If you were severing a 360-acre parcel into two parcels or into three parcels of 120 acres apiece, in our plan that would not be considered residential, that would be considered smaller farm holdings and the infilling would not apply. Would that not fit in your official plan?

Mr Mayer: Okay. I thought I understood the situation. Somebody is more familiar than me with this particular item, because this was the way I understood the matter. I understood also what you're saying, that farms could be divided—

Mr Hardeman: I guess my position really is, I think that maybe we may be reading more into the policy on infilling than what is intended to be there. The infilling has been in place in a number of areas where it applies to residential severances in areas other than residential zones, but that does not prohibit, at least in our area, other types of severances.

Mr Mayer: Okay. In order to answer the question correctly, maybe the same question should be presented to the next speaker. He would answer, because he is our planner.

Mr Hardeman: Thank you. I'd be more than happy to try and do that.

The Chair: Thank you again, Reeve, for making a second presentation before us here today. We appreciate your taking the time to come before us.

Mr Mayer: Thank you very much for listening.

1400

SUDBURY EAST PLANNING BOARD

The Chair: Our next presentation will be from the Sudbury East Planning Board. Good afternoon. We have 30 minutes for you to divide as you see fit between presentation and question and answer period.

Mr Brian Carré: Good afternoon, Mr Chairman, and members of the committee. My name is Brian Carré. I am the planner and secretary-treasurer of Sudbury East Planning Board. I am submitting to you today a brief on behalf of the members of the Sudbury East Planning Board. Again, on behalf of Sudbury East Planning Board, I would like to take this opportunity to thank the committee for allowing the board to address some of its findings upon having reviewed the proposed legislation.

Let me begin by saying that our board is one that oversaw four official plans being implemented in the span of approximately five years, all of which are presently "consistent with" Bill 163. I think a point that should be made here is that Sudbury East Planning Board was created in 1990, so we're a fairly young board, and in that span of time we oversaw the adoption of four official plans. I think that's a point we should remember throughout this presentation.

Sudbury East Planning Board, including its member municipalities, is frustrated with the effects of the legislation on our potential for economic growth and our survival as a small northern Ontario community. While welcoming changes through the enactment of Bill 20, we foresee the need for numerous amendments to our official plans. The countless hours and moneys dedicated to these documents now appear to have been somewhat futile. None the less, we, the members of the Sudbury East Planning Board and its member municipalities, will attempt to restore the faith of our constituents in the need for a solid planning system which is streamlined, promotes economic growth and protects the environment.

To achieve this, we would like to bring to the committee's attention the following comments and observations which we feel will allow the board to administer a more effective planning program in Sudbury East.

Subsection 1(2) of Bill 20 limits the definition of a "public body" for the purpose of appeals to the Ontario Municipal Board to the Ministry of Municipal Affairs and Housing only. The Sudbury East Planning Board welcomes this effort in streamlining the planning process and the one-window approach to land use planning in Ontario.

Subsection 3(5) now reverts the criteria for exercising planning authority back to "shall have regard to" provincial policy statements from the previous "shall be consistent with" standard. Also, the legislation no longer requires municipalities and planning boards to make their official plans consistent with provincial policies pursuant to section 26. While embracing the apparent flexibility of "shall have regard to," the Sudbury East Planning Board is of the opinion that the level of flexibility may only be ascertained further to a review of the draft provincial policy statements.

The board acknowledges that the provincial policy statements are not the subject matter which has been referred to this committee. However, we submit that it is impossible to make any conclusions on this specific change in legislation, being the concept of "have regard to," without reviewing such policies. It is respectfully requested that the proposed legislative change to "shall have regard to" be evaluated in conjunction with the submissions to be forwarded to the planning policy

branch of the Ministry of Municipal Affairs and Housing regarding the draft provincial policy statements.

The Sudbury East Planning Board would also submit that a common understanding and application of the concept of "shall have regard to" is essential to a sound provincial planning system. People change, be it staff, politicians or appointed officials. Notwithstanding that the government is of the opinion that "years of experience show that planners and decision-makers, including the Ontario Municipal Board, know what this means," the concept of having regard for policy statements needs to be clearly defined to ensure a level of consistency in decision-making for all residents of Ontario.

To conclude, the Sudbury East Planning Board would suggest that in any definition of "shall have regard to" which would oblige planning authorities to consider provincial policies, a clear distinction in such policies be made regarding the demand for development in cities, counties and district and regional municipalities as opposed to the demand for development in smaller northern Ontario municipalities. Our member municipalities are also of the opinion that should this distinction not be made, any potential for economic growth in smaller municipalities will be eliminated. This, combined with significant funding reductions, will bring many of our smaller northern Ontario municipalities to the brink of extinction.

In regard to subsection 4(2), the minister may delegate to planning boards any authority, with the exception of the authority to approve official plans and official plan amendments. Subsections 17(2), (3) and (4) give the authority to approve official plans or official plan amendments to various county, district and regional councils. The Sudbury East Planning Board is of the opinion, by virtue of the fact that the proposed legislation does not require official plans to be consistent with provincial policy, and should a common understanding and application of "shall have regard to" be implemented, that it would be logical that planning boards be delegated the authority to grant, at the very least, official plan amendments, should they request it. The board feels that since they are the planning body that administers official plans in the area, they are the foremost authority that can assess what would comply or not comply, while having regard for provincial policies.

Also, subsection 4(2.2) gives the minister the power to delegate his authority to a planning board without the board's request if the board has an official plan. The Sudbury East Planning Board would simply recommend that a consultation period be included in this clause so as to allow planning boards to adequately prepare themselves for the delegation of a particular authority.

The repeal of subsections 16(1), (2), (3) and (4) is endorsed by the board in that it allows planning boards, in conjunction with their member municipalities, to identify the areas which they see fit as being the best location for two-unit residential homes. This particular change in legislation is seen as providing flexibility and local decision-making in such matters.

Subsection 17(13) of Bill 20 requires regional, metropolitan and district municipalities, prescribed counties, local municipalities within a county for municipal

purposes and cities in a territorial district to prepare and adopt and, unless exempt from approval, submit an official plan for approval. However, subsection 17(14) gives the option to other municipalities to prepare and adopt an official plan. The Sudbury East Planning Board is of the opinion that there is no incentive for such other municipalities which may be adjacent to planning authorities to establish and adhere to good planning practices. It would also appear that member municipalities could simply repeal the bylaw adopting their official plans and disregard any local planning policies.

Whereas many residents of northern Ontario perceive official plan policies as unnecessary restrictions, individuals are locating, and in some cases relocating, to municipalities which do not have official plans in place. The board would recommend that all municipalities throughout Ontario be required to prepare and adopt some form of localized planning policies. It is felt that having such local policies in all municipalities will strengthen the provincial planning system, further protect the natural environment and balance the opportunities for growth in all Ontario municipalities.

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In regards to zoning matters under subsections 34(10.1), (10.2) and (10.3), the Sudbury East Planning Board welcomes the opportunity under the proposed legislation to pass bylaws requiring zoning bylaw amendment applications to include prescribed information as well as the opportunity to refuse to consider, or further consider, such applications not including the prescribed information.

The board also embraces the removal of the authority of a council to prohibit all uses of land or the construction of all classes of buildings in areas of natural and scientific interest, sensitive areas, archaeological areas and contaminated areas. Both proposed changes provide for more flexibility and local decision-making, while requiring prescribed information for zoning bylaw amendment application gives decision-makers a better opportunity to make well-informed decisions for all residents of the planning area.

The planning board also applauds the elimination of the opportunity for public bodies to request a 10-day extension to comment on a proposed zoning bylaw or amendment. It is felt that this legislation will streamline the zoning bylaw preparation and amendment process and provide for a more appropriate time frame for such consultations.

Pursuant to subsection 47(2), whereas a planning board may be delegated the authority of the minister for such matters as zoning and minor variances, subsections 45.1(38), (39) and (40) are unacceptable to the Sudbury East Planning Board. More specifically, giving the authority to the Ontario Municipal Board to recover the costs of conducting a hearing from a planning board, regardless of who is referring the matter, is inappropriate.

Should a planning board be delegated the authority of the minister under section 45, any appeals must be referred directly to the Ontario Municipal Board. Subsequent to the most significant funding reductions to municipalities in Ontario's history, which consequently have reduced municipal contributions to planning boards,

such legislation is not a sign of the times. The Sudbury East Planning Board would respectfully request that a user fee system be implemented so as to recover the costs of a hearing from the individual referring the matter.

Also, under subsection 47(2), subsections 45(5) and (6) do not apply to the powers of the minister. The Sudbury East Planning Board would submit that should the minister delegate to a planning board the authority to deal with minor variances, such boards may have adopted official plans by way of bylaw. By virtue of this, the board would respectfully request that subsection 47(2) of the proposed legislation be amended to allow for subsections 45(5) and (6) to apply to planning boards.

In regards to subsection 50(3), being subdivision control, the Sudbury East Planning Board has serious concerns with clause (b) by virtue of the fact that no land may be conveyed, other than by consent, should an individual conveying such land have any rights to abutting land. When this particular legislation was enacted, many, if not most, property owners in northern Ontario were not adequately informed or even aware of the effects of this legislation, being the merging of lots under the Planning Act.

Prior to the legislation being enacted in the 1970s, many individuals owned and/or purchased abutting land and to this day are not aware that they in fact own only one piece of property. To correct this, the planning board would respectfully request that subsection 50(3) be amended to allow for the recognition of all lands deeded as separate lots prior to the enactment of subdivision control. The board, while recognizing the purpose of subdivision control, is of the opinion that the provisions for notifying the public of legislative changes is somewhat inadequate.

Subsections 51(20) and 53(5) of Bill 20 suggest that the notice of application for plans of subdivision and consents, respectively, must be given only if it is prescribed by regulation. The Sudbury East Planning Board would submit that, should notice be required, it be done by way of posting on the subject lands. The additional time and costs associated with preparing, circulating and/or posting such notices in local newspapers is unnecessary. The board suggests that a large enough sign or poster visible from the road would suffice to notify surrounding land owners of a particular application having been submitted.

Subsection 53(14) of the proposed legislation allows for any person or public body to file an appeal in respect of a request for consent 60 days after the application is submitted if no decision is made. The Sudbury East Planning Board is of the opinion that such a reduction may not provide staff adequate time to prepare the background information and comply with the consent regulations so as to allow the decision-makers an opportunity to make the best informed decision on a particular application.

The volume of applications may vary over the course of a year; however, it is felt that the attention given to applications submitted by area residents must not. Therefore, the planning board would respectfully request that the 90-day time frame remain.

In regard to time frames, the planning board has recognized that numerous changes have been made to

such processes as stipulated under sections 17, 22, 34, 51, 53 and 45. Although the Sudbury East Planning Board has yet to receive any of the minister's authority under the act, with the exception of the granting of consents, we would respectfully caution the government on these reductions. More specifically, it is presumed that these time frames were carefully chosen based on the tasks at hand and the limited resources available to planning boards and smaller northern Ontario municipalities.

Should these time frames be too limited, the objective of creating a faster, cheaper and more understandable system, while allowing planning decisions to be made by the people who best understand local circumstances, will not be achieved with respect to planning boards or small northern Ontario municipalities.

In closing, section 67.1 allows planning boards to retain the proceed of fines in proceedings undertaken by them. The Sudbury East Planning Board applauds this change as it provides planning boards with the same opportunities as municipalities when convictions of zoning offences are handed down.

At this time, before I conclude, I feel compelled to raise a few points with the committee in regard to some of the comments that I heard earlier this morning. There were comments made that the Sudbury East Planning Board, in preparation of official plans, may have had one meeting, and one that was cancelled. I feel it is appropriate for me to inform you that the planning board held seven public meetings. We were only required to have one under the legislation; we had seven. Of these seven meetings, three were workshops on various issues under the Planning Act where residents were invited to sit down on issues of their interest and provide us with whatever they felt was important to be included in the plan. I just thought I'd like to make that clear, that public input was given due process in the preparation of that plan.

As well, there was a comment made that planners that have the authority for, as an example, planning boards, are the ones that more or less direct development and not the planners in Ontario. I feel I have to comment on that in that the planners that work for planning boards at this time, today, have to be consistent with official plan policies and these official plan policies reflect provincial policies. In other words, the planners that work for planning boards, or any other authority, do not direct development. Under Bill 163, we are required to be consistent with provincial policies. I just thought I'd like to make that clear as well.

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Mr Bisson: Thank you very much. We don't have a lot of time but I'd like you to elaborate on the comment you made where you were making a suggestion that the "shall have regard for" provision be evaluated with a submission to be forwarded to the planning policy branch of the Ministry of Municipal Affairs and Housing. Can you expand on that a bit, what the logic of that would be, because I think a lot of people don't understand what you're getting at?

Mr Carré: When we sat down as a board, the board was of the opinion that it's very simple to say that "shall be consistent" is more flexible than "shall have regard for," but what are we having regard for? We're having

regard for policy statements. We, the board, were of the opinion that the policy statements were not to be discussed here today and we are in the process of preparing the written submissions to the planning policy branch; therefore, how can we comment on the flexibility of "shall have regard for" without reviewing the policy statements? That in fact is what the board has asked me to bring back to the committee.

Mr Bisson: There is a view, and I wouldn't say this is shared among all planners, that you may end up with more appeals with the new provisions as compared to the old ones, because it would be less clear. Do you agree or disagree with that?

Mr Carré: I think the board made it clear in their submission that they would like to see some type of understanding, definition—we can call the term later—of what "shall have regard for" really means. We say this because we want to see consistency in planning decisions, whereas staff and decision-makers know exactly which direction they're going in on planning applications.

The board has also asked to state that if such an understanding or a definition is prepared, if it's going to oblige decision-makers to "have regard for," we're not necessarily changing flexibility here. If that's the case, the board is asking that there be some distinction in the demand for the type of development versus the large urban centres as compared to the local municipalities.

Mr Bisson: You pointed out in your presentation, and I think correctly so, when you said that development tends to happen and can be attracted easier in those places that have no local planning policies. I think the answer to that fear I have is that if you don't either clarify the "having regard for" or you move away from "being consistent with," you can really end up in a situation that is the worst of both possible worlds if it's not clearly defined in the legislation as a regulation.

Mr Carré: That certainly may be the case, but I think that comment was made in the context of—in our area, anyway, in Sudbury's planning area, and in areas where there are no official plans, people perceive that it's almost a free-for-all, and the municipalities that are dedicated to having good planning practices in their municipalities are losing on any potential for growth, because people are locating or even relocating to those areas where there are no official plan policies.

Mr Hardeman: I want to carry on with the other discussion I had with the reeve earlier, but first I'd like to deal with that "shall have regard for" as opposed to "shall be consistent with," and I recognize your need for clarity to know what it means. Without that definition, could you tell me if you see it in any way possible that "shall have regard for" could be considered by anyone to be more restrictive than "shall be consistent with"?

Mr Carré: Let's use a scenario. Should someone have applied for consent and the decision-maker in his own mind feels that "shall have regard for" is, "I read the policy; it doesn't apply; approve," and we find ourselves at the Ontario Municipal Board, what assistance have we given to the applicant? The process is longer and there still is no decision.

At the Ontario Municipal Board, we're looking at the application and we say: "We have to have regard for

these policies. Did you have regard for these?" "Yes, I read them. I don't think they apply." "Why not?" "Because I just don't think so." That's not flexibility. They have to have regard and they have to be more or less consistent with those policies to some level to have that decision handed down.

Mr Hardeman: The other question I had was the issue of the policies in the region's official plan; I guess the one that you administer. Would a severance of a 360-acre rural parcel be prohibited under that official plan, and what policies would one use to direct that?

Mr Carré: I think first I have to caution the committee in that when we speak of farms, some individuals speak of farms as just large lots of 80 acres and so forth. A planner may look at "farm" as a use. So if we're looking at a proposal for a large tract of land that is not identified as agricultural land, be it class 1, 2 or 3, but it's still a large tract of land, the consent criteria in that official plan require infilling in rural areas, yes, and if he does not comply with that infilling policy, unfortunately the application would not be successful in my opinion.

Mr Smith: Thanks very much for your presentation. Of interest, you've identified the one-window approach. Over the course of the last week some of the opposition members have raised concerns that the one-window approach would diminish the access you might have to technical expertise provided by various ministries. Is that a concern you share? Maybe you can provide me with some idea of how often you access technical expertise from various ministry officials.

Mr Carré: Maybe I'm very fortunate, but the offices I deal with, be it from any ministry in the Sudbury area, always are by the phone and ready to assist at any time. I don't think under the one-window approach, should a call be needed to a fellow planner at the Ministry of Environment and Energy, the phone would be hung up. I don't think that would happen. I think we're very fortunate here to have that.

As far as my ideas on how to approach are concerned, should it be a problem, from my understanding of discussions with the Ministry of Municipal Affairs and all the other ministries, it was that they were to meet and pool together the interests that are significant to each ministry, to be pooled together in one information database, whereas the Ministry of Municipal Affairs would administer. From a simplistic way of looking at it, we're assuming that the ministry wouldn't go out there and try to contradict the Ministry of Environment on serious matters of the environment. We're happy with that.

Mr Gerretsen: You've been very honest in that response and what it really shows is that the administrative working together of the various departments involved in the process is a heck of a lot more important than anything else.

I totally concur with your earlier comment that looking at the Planning Act, which is a process or procedure document, apart from looking at the policy statements doesn't make a lot of sense. You've got to take a look at both so that you know how the two of them fit together. It's unfortunate this committee wasn't empowered to at least make some comments on the statements as well, because I completely concur with you in that regard.

You make a statement here that, "Prior to the legislation being enacted in the 1970's, many individuals owned...abutting land" and were not aware of the fact—are you telling me that in Sudbury East there are still situations where there are deeds registered as a result of the various corrections to the Planning Act that were made whereby invalid deeds were validated etc, that there are still situations out there where people know they've got invalid deeds but haven't been able to do anything about it?

Mr Carré: What I'm saying is that the enactment of this legislation—there are some people out there who are sitting on land thinking they have two or three parcels. One day, should they need to sell, through unfortunate deaths and so forth, they'll find themselves in a situation where these lots have merged. They come to my office every day. They have the separate deeds in their hands and they say: "What do you mean they're one lot? Here are the deeds."

Mr Gerretsen: If I could just make one other point, and that deals with this "be consistent with" and "having regard to," anybody can read almost anything into that, because you can also start using words like "adhere to," "oblige" etc. What's really important, and I'd like to stress this to the government members, is that a protocol be set out whereby the local planning authorities know exactly what they have to do to have proper regard for the official plan and the various documents.

There has to be a procedural mechanism set out so that everybody at least knows, yes, an organization, a planning staff or a council has had regard to it or has not. Right now we're in Never-Never Land, because some people think that "be consistent with" is the greatest thing; others think "having regard to" is the greatest thing, or all the other terminology like "adhere to," "oblige" etc. It means too many things to too many people. I'll tell you, if you have a protocol set out, it makes it a lot easier for everybody: the development community, the general public out there and the planning staff. I wonder if you'd make some comment on that.

Mr Carré: The board members are the ones who asked me to relay this message, and they are pleading for some kind of direction on "shall have regard to." They are the ones facing the heat, and they want to make sure they are making the decisions in line with provincial policy.

The Chair: Thank you, Mr Carré, for taking the time to make your presentation before us today.

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REGIONAL MUNICIPALITY OF SUDBURY

The Chair: Our next presentation will be from the regional municipality of Sudbury. Good afternoon.

Mr Bill Lautenbach: Mr Chair and members of the committee, my name is Bill Lautenbach, and I'm the commissioner of planning and development for the regional municipality of Sudbury. I'm pleased to address the standing committee on resources development to express the concerns of the regional municipality on planning reform proposed in Bill 20.

Last month the regional municipality of Sudbury made a written submission to the standing committee and the Ministry of Municipal Affairs and Housing on the proposed bill, and today I wish to reinforce some of those concerns. I've also provided you with a copy of that brief; it should be before you.

Before I get into the heart of my presentation, I would like to emphasize to the committee that while the majority of the regions in Ontario have a two-tier planning system, the regional municipality of Sudbury has a legislated single-tier planning system. Although such a system has brought about efficiencies, it has occasionally brought about inadvertent problems whenever the province proposes major changes to the Planning Act, such as in the case of Bill 20 now and Bill 163 earlier. Process changes designed to improve planning in regions with a two-tier planning system may sometimes create confusion or difficulty for a single-tier region such as Sudbury. Some of our concerns and recommendations included in this brief are therefore the result of our one-tier planning system.

One small example I can cite which is a problem unique to single-tier regions can be found in the administration of part lot control, where the proposed subsection 50(7) refers to the adoption of a bylaw by a local municipality to exempt part lot control. We recommend that the act be clarified that when a region with single-tier planning responsibility passes a bylaw to designate lands not subject to part lot control, it is deemed to be exercising the power of the local municipality authorized under subsection 50(7) of the act.

With regard to one of the main proposals of Bill 20, we certainly are pleased that the apartment-in-a-house provision of the act has been repealed. This was a provision that was rejected by many Ontario municipalities, including Sudbury. We believe that the control of density and the built form of a community is indeed the responsibility of that municipality through its official plan and zoning bylaw documents.

We have certainly carried out this mandate responsibly. As an example, zoning in older sections of the city of Sudbury for many years permitted a mix of building types and do contain up to four units per building. Under that zoning, there should be ample opportunity to provide affordable housing in these older neighbourhoods, and provincial legislative power should not be used to interfere with these local decisions. I might add that we often have many other requests for zoning changes in other areas of the community. These have always allowed for neighbourhood input on those matters, and in the vast majority of circumstances in fact they have been improved.

One of the key elements of Bill 20 is the further streamlining of the planning process. In this regard, I'd like to emphasize that the region supports the amendments that would shorten the time frame of the planning process. Overall, we are pleased with the proposed time frame reductions. As a matter of fact, our local planning process already meets these time frames in the majority of cases. It's only when provincial reviews or unforeseen circumstances in approvals are involved that these time frames would be extended, or where a case is appealed to

the Ontario Municipal Board. The shorter time frames proposed should bring improvements in this regard.

I would also like to point out that although planning reforms brought about by Bill 163 had already shortened many of these time frames, these amendments also brought in unnecessary delays in other parts of these same processes. One notable example is that there is currently a required 14-day waiting period between a public meeting and a decision on an official plan by council. With our current meeting schedule, where regional council meets one week after the planning and development committee, the elimination of the waiting period by Bill 20 means that regional council may ratify planning and development committee decisions and pass the necessary bylaws the following week at the same time, instead of having to wait an additional two weeks into the future.

The reversal of the "be consistent with" back to "have regard to" provision under section 3 of the Planning Act is a return to the status quo that our region is familiar with. While we supported initially the "be consistent with," we also recognize a number of the problems that went along with that, and we have no difficulty returning to a process we are very familiar with from the past. Hopefully, it will bring more flexibility in the implementation of provincial policies.

Along with this change, however, subsection 3(8) is also deleted from the act. By deleting this subsection, municipalities lose the certainty that once their official plans are approved, these become the paramount policy document. This subsection should be reinstated so as to bring back this assurance. We therefore recommend that subsection 3(8) of the Planning Act be reinstated with modifications to recognize that once an official plan or amendment is approved, it is considered to have been adopted by council after due consideration of all applicable provincial policy statements.

Another of our concerns is with respect to the approval of official plans. The bill would allow regions with a two-tier planning system to receive delegated authority to approve the official plans of their local municipalities. Under such delegations, local municipalities would receive approvals of their official plans locally from their respective regions. The regional municipality of Sudbury, having a single-tier planning system, is not designated to receive delegated authority; therefore, all official plans and plan amendments adopted by the region will continue to be approved by the minister, including those amendments that are minor in nature and do not involve provincial interests.

Besides the direct delegation of approval powers, there is another avenue for eliminating these unnecessary delays. Changes proposed in this bill would allow the minister to exempt a plan or amendment from approval where there are no appeals to the Ontario Municipal Board. Although we recognize the role of the province in the approval of comprehensive official plans, exempting plan amendments from approval would speed up the approval process in the majority of cases by eliminating the need for sending all official plan amendments to the province for final approval. We therefore recommend that

amendments to the regional official plan and secondary plans in the regional municipality of Sudbury be exempted from approval by the minister.

With respect to minor variances, one very significant change in Bill 20 that impacts the regional municipality of Sudbury is that minor variances cannot be appealed to the Ontario Municipal Board and that the council is designated as the body with the power to arbitrate disputes. This is a proposal that the region and many other municipalities support. It will eliminate a significant amount of time for the Ontario Municipal Board and will speed up other, more important appeals. Operationally, however, it will bring some difficulty at the local level. Although the new request-for-review process proposed in section 45.1 of the act represents streamlining for the Ontario Municipal Board, it is not a streamlining process for either the municipality or the other public or private parties involved. Section 45.1 proposes an elaborate 50-day process whereby the appellant would have the opportunity to make a submission and the various parties would have the opportunity to receive the submission and make replies to it.

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As the appellant is already required by the Planning Act to state their reasons for requesting their review and the other parties to the case have already made their comments or concerns known to the committee of adjustment in their original review of the application, the additional opportunity for submissions and replies to the submissions should not be necessary. Those extra steps should be eliminated and hence reduce the 50 days of the request-for-review process.

The secretary-treasurer of the committee of adjustment should simply issue a notice of the request for review and send all existing documentation to the municipal clerk within 10 days to initiate the review process. This is particularly true in the sense that the procedure is a request for a review, not an appeal, which would require a *de novo* hearing under the rules of the Ontario Municipal Board. The council should therefore review the original information provided by the committee of adjustment only and should not be obliged to consider new information.

We therefore recommend that section 45.1 of the act be amended such that the process for a request for review of a committee of adjustment decision be shortened by eliminating the steps that would allow the parties to make written submissions and replies to submissions regarding the request for review, and that the requested review is a review of the decision on the or original application only.

Moreover, I would like to point out that in the administration of planning matters, our regional council has adopted a committee system whereby the planning and development committee conducts public hearings on behalf of regional council and makes recommendations to regional council for ratification. The current wording under section 45.1 does not seem to allow for this type of review on minor variances. As a result, we recommend that the act be clarified such that in reviewing decisions of the committee of adjustment on an application for minor variance, a committee of council be allowed to carry out the duties of the full council under the proposed

subsection 45.1(22) of the act, and that its decisions would also be considered final once ratified by council.

I hope you understand the nuances of that point. At present, because all our business is done by committee, we would see that committee as also handling these appeals from a time management standpoint, with council simply ratifying those decisions.

Finally, there is the question of cost. The proposed legislation is silent on whether a municipality may charge a fee for a request for review. Section 69, "Tariff of fees," of the current Planning Act only refers to the assessment of fees for processing applications. It is unclear whether a request for review is considered an application. We therefore recommend that section 45.1 of the act be clarified to state clearly that municipalities may assess a fee for the processing of a request for review or to cover the costs of referring the matter to the Ontario Municipal Board.

With respect to a small number of inconsistencies, besides the above noted concerns, there are other instances where minor improvements and clarifications are needed to Bill 20. For instance, there is an inconsistency in the time frames for notification between minor variances and consent, one being 10 days and the other 15 days. Where parallel applications for minor variance and consent for the same property are heard by the same body—in our case we have a committee of adjustment and a land divisions committee that are one and the same—these inconsistent notification periods would complicate the administration of the process unnecessarily. We therefore recommend that the notification periods under subsections 45.1(11) and 53(17) be made consistent with each other.

Another inconsistency is the use of the terms "public meeting" and "public hearing." We recommend the act be clarified to indicate whether there is an intended difference between the terms "public hearing," as used in the case of minor variance, and "public meeting," as used in all other cases.

Finally, with respect to control of site alterations, the region has for many years lobbied the province to consider topsoil removal as a use of land which therefore should be regulated under the Planning Act, the latest efforts being the region's submission to the Sewell commission in 1993 and its submission on Bill 163 in 1994.

Earlier, the region also lobbied for the introduction of a private member's bill to enable the region to control grading, dumping of fill and similar pre-development activities. That avenue for change was left unfinished when Bill 163 was enacted, as it provided the region with those powers; however, with the subsequent introduction of Bill 20 and its policy statement, the region is again left without powers to deal with these matters, even though it is a one-tier planning authority responsible for all planning matters. We therefore recommend that site grading, excavation and removal of topsoil or peat be covered under the Planning Act such that these site alteration activities may be regulated as uses of land.

Finally, in closing, I wish to express again our appreciation to be able to appear before the standing committee and for holding these meetings in Sudbury. If you have any questions on this presentation or on my brief, I'd be

happy to attempt to answer them on behalf of myself and regional council.

The Chair: Thank you, Mr Lautenbach. We have five minutes per caucus for questioning.

Mr Smith: As I think was mentioned earlier this morning, there's certainly a different view with respect to minor variances that we've heard over the last week. While in Toronto, a lot of people expressed concern with respect to the proposed amendments in terms of perceiving them to be a barrier to a personal right: local parochialism and in some cases inability of local municipalities to in fact adequately deal with minor variance applications in an appeal process. That's certainly not been the viewpoint that's been expressed here.

Perhaps one of the problematic parts of the bill is how we deal with concurrent severance and minor variance applications. I think you've alluded to that. Could you give me an idea of how often you have concurrent applications coming forward?

Mr Lautenbach: I would suspect that probably about 10% to 20% of the consent applications would be accompanied by a minor variance.

Mr Smith: So the framework or proposal that you've outlined here in terms of your committee structure would potentially address that problematic concern that would be present with the bill as it's written presently?

Mr Lautenbach: At the present time they're handled jointly, so we don't have to take into consideration varied time frames. It's simply put through as a single process: two different points on the agenda, but they're handled in the same evening at the same time.

Mr Hardeman: I have a couple of questions. One was the issue of the minor variance appeal to council, but you made a point in your presentation to deal with the issue that it would not be an appeal but a review by council. If that's the case, would that still hold up? An individual coming forward with what they would consider should be a right to appeal, and then it only being a review, and furthermore it only being done by a small number of members of council: Do you feel that would still give the individual the assurance that they were getting a full hearing on an appeal process?

Mr Lautenbach: First of all, if it went to the OMB, you'd be having a review of one or two individuals. In the case of the planning committee, we have six individuals who would hear all public hearings and additional councillors could be present at that hearing.

Simply for the matter of convenience and not to clog regional council agendas where 21 members of regional council would be forced to hear minor variance hearings, the region's position is that if they are truly minor, they in many cases don't warrant the degree of significance the province in the past has placed on them to move to full OMB appeals and that regional council should be in a position to adjudicate those matters, as it does rezonings and many other issues.

Mr Hardeman: The other issue you again raise, and it's been raised by a number of deputants, is the issue of an official plan being deemed to have had regard to the provincial policy statements, so it could then be the regulating document. Have you got any direction you would like to share with us on how you would make sure

that the two did stay consistent as they were going through the process, that as the provincial policies may change, there was some mechanism that would trigger the official plan to be changed too to account for that?

Mr Lautenbach: We've made two statements. First of all, with respect to official plans, those plans are reviewed by the various ministries and they're part of the process as we develop those plans. Therefore, once they're approved by council and accepted by the ministries, we're requesting that they be deemed to conform with the provincial policies because individuals and bodies have bought into that process.

With respect to site-specific applications, we've indicated that we think that should be a delegated function coming back down to us, that the time for comment is at the front end of that process—and both the ministries and council do that—and it's not necessary to treat those in the same way that we do full secondary plans or official plans.

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Mr Hardeman: The other issue was the timing of the 10 days and the 15 days for minor variances and applications for consent. I just wanted to point out that's been brought up previously, that there is a problem with one is appealable and the other is not. A lot of those applications are dealt with by the same authority at the same time. In those cases, minor variances would end up at the OMB even though that appeal process was not available.

Mr Lautenbach: We've also mentioned that in our long brief.

Mr Gerretsen: Just so we're clear, though, we're talking about a double possibility with respect to committee of adjustment: You can either have a committee appointed by council, and then the final appeal could be the council, or council could be dealing with it directly. Just so there's no misunderstanding—I'm sure you're aware of this—we're not talking about a review by council, which is quite a bit different than an originating hearing.

Your councillors aren't on a full-time basis, are they?

Mr Lautenbach: Some of them are. Some of the mayors are on a full-time basis, but the majority of council is not.

Mr Gerretsen: But, as you stated, the whole council wouldn't want to be taken up with a committee of adjustment hearing. What's proposed here, though, is that that council either be used as an appeal body or actually be the hearing body of the committee of adjustment matter.

Mr Lautenbach: As I understand the process, you can either appoint a member to the committee of adjustment, in which case the decision of the committee would be final. In the case of our council, I don't think they would want to go that route. However, because they have a standing committee of council, the planning development committee, they're quite prepared to hear those appeals at that level. Currently, the way the act reads, it doesn't appear to give that option to council, to have a standing committee of council deal with that and then have those decisions ratified by all of council, as they do on every other hearing that's taken place.

Mr Gerretsen: Yes, but ratification is a little bit different than appeal, quite frankly. In any event, I know

you're looking basically from a municipal council's viewpoint or from a planning viewpoint and you want to be fair to everybody, but I can tell you that looking at it from an applicant's viewpoint who feels that he or she has been aggrieved and didn't get the minor variance, the knowledge that you've got no alternative anywhere other than to come in with an expensive rezoning application, which will take a lot of time and effort, or having the ability to appeal it to an OMB official—I think there's a large difference there in costs, the larger cost being the rezoning application. There's a tendency for all of us to look at this only from our own perspective. I think we ought to look at it from the perspective of the general public and the applicant's viewpoint as well, and it's not as easy as it sounds.

Mr Lautenbach: If I can add to that, maybe your comfort level, right now we have five members on the land division committee, committee of adjustment. If we were to add one council member, that would be six. If the planning and development committee was allowed to be the appeal body—we'll call it the appeal body—then you'd still have six other members reviewing that decision. Right?

Mr Gerretsen: Well, it's also been suggested to us that most of the appeals heard by the OMB from committee of adjustment decisions, minor variances—unfortunately the OMB people weren't allowed to come to the meeting itself. It was suggested they be invited from an administrative viewpoint, but the government was against that.

It's been suggested that most of those hearings take a very short period of time, and it's been suggested, as a matter of fact, that a small panel of the OMB could be set up on a rotating basis that could specifically deal with minor variances on a rather expedient basis, no more than a month or two after the original hearing, so that you don't have to wait a whole year or 10 months before the OMB finally happens to come through your community the way it's happening right now with respect to most appeals on rezoning matters etc. It doesn't have to be a long and drawn-out process before the OMB at all. It's just a notion that somewhere along the line, there's got to be an impartial person who's going to deal with this who perhaps doesn't get involved in all the political nuances of the community.

The Chair: Questioning from the third party?

Mr Christopherson: I'd like to follow up where John left off, because I have similar concerns. Having spent five years on city and regional council in Hamilton, and all that time also on the planning and development committee of the city, I have some experience in this area. I've seen at committee of adjustment, and carried through to the council meeting, decisions that quite frankly, if it weren't for the OMB, would have left individuals in some cases and communities in others very much wronged.

I've seen business people come in with a legitimate minor variance—legitimate, in my opinion, if you will, but none the less one that I thought really should have been allowed—but because that particular business maybe wasn't desired to be in that neighbourhood by a lot of residents, every chance they had to go in and make that

person's life miserable, they would. It was only because the business person was able to get to the OMB that they could get a non-political decision based on the law and the merits of their application alone.

Conversely, I've seen the needs of a whole street ignored because of a desire on the part of members of the committee of adjustment or politicians to drive through a principle of business should get what they need no matter what. Those people had been left high and dry and only got justice when they got in front of an OMB official.

I'd like to hear your thoughts on that a little more, about how you overcome that and still—why do you have such comfort that natural justice, as well as legal justice, will prevail, or be allowed to prevail, in these kinds of circumstances?

Mr Lautenbach: I guess as a planner I would also have some concern for natural justice, just so you don't confuse that I have no concern.

The way you've set this up in the bill is you have the option of appointing a member of council to the committee of adjustment, in which case the decision is final. At that point, it's done. Okay?

What we're saying as an option to that is, allow us to have the planning committee as that other option. We don't have any members on the planning committee, so you have presumably five members from the community who may have some biases, but those would be sorted out, and then you have a political group that would also serve as a check and a balance. We see that if they are truly minor in nature, this system should work.

Mr Christopherson: My experience is that oftentimes it was the politician who didn't provide the fairness because they had a political need taking care of their ward and many of the citizens felt somewhat reluctant to take on a politician because of—well, obvious reasons, as well as their own experience.

Again, I can only go by my own experience. It's too bad Mr Hardeman left, but I'd have to have an understanding of the difference between what's currently going on in the proposal vis-à-vis the appointment of a sitting politician.

We already had a sitting politician on our committee of adjustment, and we still ran into all these dynamics I've outlined to you. I'm hearing from John out of Kingston, where he's a former mayor, that they had a similar experience.

And that's the one difference that I've learned between the two levels of government: that one level is much more susceptible to public pressure, rather spontaneous, oftentimes emotional, than the more senior levels of government, which don't tend to be as influenced, although there's hope that at some stage a certain level of public pronouncement may influence a government.

But it is true, and the idea that somehow justice will be improved or even maintained to allow expediency still fails to take hold with me. Can you—

Mr Lautenbach: Again, I think if we're trying to streamline the system—and this bill is attempting to do that—then we've commented from our perspective on how we think that could work in our region. We don't have that many minor variances that wind up before the OMB, at least not to my knowledge.

Mr Christopherson: So where's the problem?

Mr Lautenbach: The problem is, from my perspective again, I think if we wind up with council having to sit as a full council as a hearing body, that's not a workable solution in our case, given the 21 members of council.

Mr Christopherson: I'm sorry, sir, but if you don't have that many appeals to the OMB, why is this such a big deal? Why risk running the loss of natural justice to expedite something that you've just said is not such a major issue for you?

Mr Lautenbach: I will leave it at that. I think we had a difference of opinion here.

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The Chair: Thank you, Mr Lautenbach, for taking the time to make a presentation before us here today.

Mr Lautenbach: You're welcome.

SUDBURY HYDRO-ELECTRIC COMMISSION

The Chair: Our next presentation will be from the Sudbury Hydro-Electric Commission. Good afternoon.

Mr Steve Watt: Good afternoon. Like all the previous deputants, I'd like to welcome you to Sudbury and thank you for the opportunity to address you.

Mr Gerretsen: It's a great place; good to be here.

Mr Watt: We're here, in my submission, on a fairly straightforward matter and don't intend to take too much of your valuable time. You'll note that we prepared a brief overview in the form of a submission and it's divided into very specific and short areas of concern.

Firstly, in terms of our objective and why we're here today, we're requesting that you consider an exemption from the subdivision control provisions of the Planning Act for public utility commissions, which is what the Sudbury Hydro-Electric Commission is, of course. We submit to you that those exemptions are now available for Ontario Hydro, all Ontario municipalities, as well as the federal and provincial crown. Those are contained within clauses 50(3)(c) and 50(5)(b), and I've appended those as the last two pages to this short brief.

The facts as they relate to this request are, as you aware, the Sudbury Hydro-Electric Commission, and public utility commissions generally, are entrusted with the control and management of all works within a particular municipality as it relates to the distribution and supply of electrical power. Often you have municipal councillors who are ex officio members. In our case, we have a mayor of the city of Sudbury who sits ex officio. Pursuant to the provisions of the Public Utilities Act, it's the commission and not the municipal council which controls and manages the distribution and supply of electrical power.

The issue arises through the necessary operation of the commission in obtaining easements over private lands, and those easements are required to provide the commission with the right to enter on to those lands and maintain and construct the works that are required. The problem, as you'll see at the bottom of page 1, as I've stated, is that the Planning Act currently exempts Ontario Hydro as well as all municipalities, but it doesn't exempt the Sudbury Hydro-Electric Commission or public utility commissions generally as it relates to consent approvals before land division committees of a municipal council.

We're required to attend before the land division committee here at the regional municipality of Sudbury to obtain easements wherever we're dealing with private lands which aren't contained within a registered plan of subdivision, and in our area that's a lot of land. Obviously, in an area like this, in the region, there are a certain amount of subdivisions that are registered, but a lot of land we're dealing with doesn't involve subdivisions at all.

What we're saying to you today is that the applications which were required, since we have no exemption pursuant to those Planning Act provisions, require us to attend unnecessarily. It's time consuming, it's expensive, it creates delay and needless bureaucracy. Secondly, we submit that the costs for this are directly consumed by the private land owner who's involved with basically applying, paying the costs of the actual fee, which in our case is \$255 to the regional municipality of Sudbury, as well as the legal fees involved in obtaining the consent, which tend to run in our jurisdiction around \$1,000 a pop.

The evidence here in the region is that in 1994 the land division committee heard 20 of these types of applications and in 1995 they heard 18. All of these were approved and in checking with the secretary treasurer of our particular land division committee, she can't think of a single instance where an application for an easement in this circumstance was ever turned down. So what we're doing is rubber-stamping something at the cost of private land owners, where really the exemption, in our submission, could easily be extended to cover public utility commissions and not interfere in any way with the theory of the existing exemption, which is to deal with any municipality in Ontario, as well as Ontario Hydro.

That's essentially the basis of our recommendation before you on page 3, that simply you could use this opportunity in Bill 20 to streamline the process pursuant to the exemptions in clauses 50(3)(c) and 50(5)(b) of the Planning Act, which permit easements to be obtained by all municipalities, Ontario Hydro and the provincial and federal crown without obtaining a consent. We're simply asking that you consider extending that exemption to public utility commissions as well.

Lastly, as part of that recommendation, we have a short clause which we submit would be appropriate as a tag-on to those two clauses and that would read simply, "any public utility commission created or deemed to be created pursuant to the Public Utilities Act."

In our submission, this is a simple point which would result, not only in our community but in communities across the province, in significant savings of time and money, and not just from the perspective of the public utility commissions involved but also from the perspective of the private land owners who find themselves caught up in this process.

That would be my brief submission. I'm certainly available to answer any questions you might have.

The Chair: Thank you, Mr Watt. We have just over seven minutes questioning per caucus and this time it will commence with the official opposition, Mr Gerretsen.

Mr Gerretsen: Just so there's no misunderstanding, we're talking about a situation where the commission has already made its deal with the property owner and

obviously has the right to go over it. If there's any money to be exchanged, which normally there wouldn't be—but it could be if it's over a property owner who isn't directly affected by the power lines, it may go to somebody next door, for example. We're not talking about expropriation here or anything like that. It's a situation where everybody agrees that there should be some sort of a Hydro easement or corridor over a piece of property. Is that correct, sir?

Mr Watt: That's correct. In my submission, the majority of times it comes up is through the planning process, for example, through site plan approvals, through registration of conditions relating to plans of subdivision. So in most instances, the individuals involved are already caught up in a process, yes.

Mr Gerretsen: I'm just curious, because it seems to me like such a self-evident thing, that we're still talking about this kind of thing. I imagine most people might think, "Well, you know, there'd be somebody's property rights affected," but this is all a consent situation, where everybody's obviously on board.

Have you ever made this request of any previous government or bureaucracy within government to sort of have this put into the Planning Act? And what kind of response have you been getting?

Mr Watt: On behalf of strictly the Sudbury Hydro-Electric Commission, we have in fact initiated but not filed at this point court documents seeking a ruling from the Ontario Court (General Division), because the language, as it stands now, does provide for the exemption for municipalities. The argument is there to be made in law that potentially the activities of a hydro-electric commission—that they act as an agent to the municipality. Our submission is that this is an indirect way to do it, that it's causing a lot of money to be spent when it would be a lot easier to merely change the language and make it explicit rather than rely on the vagaries of the court process.

Mr Gerretsen: If my understanding is correct, quite often in subdivisions, once they've already been given approval etc, somebody comes along and still may need an easement here, there or everywhere. You're saying that in those situations, where a subdivision's already been approved, in effect you will have to go through resurveying etc, in order to get these consents through, won't you?

Mr Watt: That's correct, and the costs are additional. Again, the circumstances that we're facing mostly in this jurisdiction relate to lands that fall outside of a plan of subdivision and they're not necessarily lots in the plan of subdivision. We're saying that quite simply, by merely putting that tag on as it relates to public utility commissions, which we all know are sophisticated, large entities in most cases, we could clear up that ambiguity and save members of the public significant funds.

Mr Gerretsen: Mr Chairman, I just want to indicate, and I obviously would want to talk to my caucus colleagues about this, that this kind of a situation seems to make eminent good sense. It speeds the process along, it's very cost-efficient and it's something the government should look into and bring up as an amendment.

Mr Murdoch: Or for discussion.

Mr Gerretsen: Or for discussion. There may be another side to it that I'm totally unaware of right now. I've run into this as well from time to time and I often wondered, until you sort of put your finger on it this time, what the real problem is. As you're saying, nobody ever objects, because everybody benefits from the fact that they can obviously use the power these easements—
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Mr Hardeman: John, why would you want to talk to your caucus first? Why don't you just suggest to the government it makes so much good sense?

Mr Gerretsen: It makes good sense to me—

Mr Baird: But it might not to your caucus.

Mr Gerretsen: —Mr Parliamentary Assistant, but I'm just a rookie in this, having very limited knowledge about it. I know I'm dealing with a bunch of wily politicians, and I want to make sure that there isn't another side to the argument. But I'm all with the Sudbury power commission, all the way.

Mr Christopherson: Liberal policymaking in action.

Mr Gerretsen: Absolutely. When we hear a good idea, we adopt it immediately.

Mr Christopherson: This is new to me. It seems Mr Hardeman may have had something to contribute to the discussion, or were you just looking to—

Mr Gerretsen: I doubt it.

Mr Hardeman: I think we will take it forward and have a look at this. It does seem to bring out a point that has not been considered.

Mr Christopherson: The only question I would have is, does this at all affect a situation where any party to the proceedings may not agree with the request, or is this strictly where there's unanimity with all involved?

Mr Watt: My submission would be that this comes up 95% of the time as conditions to another process, for example, site plan control under the act, where as a requirement of site plan control an easement shall be granted to the satisfaction of Sudbury Hydro etc. Those conditions are accepted at that point, at the point of the site plan control agreement, by the member of the public. What we're submitting is that the condition as it relates to the consent, the requirement for a consent before the land division committee, is an unnecessary condition and an unnecessary expenditure of funds. Also, our submission on behalf of the utility is that it's an unnecessary waste of staff time.

Mr Christopherson: In the circumstances you're describing here, is this ever applicable in a non-new subdivision application? Does this circumstance ever arise in existing situations, particularly in the downtown of older cities?

Mr Watt: The only context I could think of it being at all contentious is where Hydro determines that they want to purchase an easement with respect to existing lands, as a result of upgrading the plant etc. Even in that circumstance, as we indicated off the top, there is an expropriation process. In the event that the parties were far apart in terms of quantum, my submission would be that this amendment would in no way affect the remedies available to private land owners.

Mr Bisson: That's the only concern I have.

Mr Christopherson: Well, yes. I just hear my colleague whispering to me just exactly what I was going to suggest, and that is that if we're talking about a situation that clearly just doesn't make any normal common sense, then it is something that should be looked at. But I would be concerned about making sure that even if there's 5% there, that we're not denying anybody an existing right to appeal that otherwise doesn't exist, because you're now getting into areas that are similar to that of expropriation in terms of use of property. I'm sure that you, like us, would take that very seriously.

Mr Watt: Yes, sir.

Mr Hardeman: Just for clarification, I wanted to make sure that the deputant was referring only to easements and not severances and purchasing of property.

Mr Watt: No, our issue is easements because that's what we deal with here, and that is the bee in the bonnet, if you will, merely easements here.

Mr Carr: As you've probably gathered, there's a bit of a consensus that some of your ideas are very helpful. Some of the other commissions across the province, I think you said, would support this as well. Have you had discussions?

Mr Watt: That's my understanding. We've had, through staff, discussions with the utility organization that represents various utilities across the province. We don't speak on their behalf, merely because this is a local initiative. But given the fact that you were coming through town, we decided to jump on it.

Our submission is that there are numerous municipalities and hydro-electric commissions which are attempting to operate, as I've indicated, through the court system and making the argument that these are unnecessary consents because the commission is in fact the agent of the municipality. We have had numerous discussions with five or six other fairly large urban municipalities on this point, and they're in agreement as well.

Mr Carr: That's what I was going to say. In your capacity, you probably have a chance to share information with a lot of the other commissions. So this has come up, and you've heard that they support it, then, as well?

Mr Watt: That's correct.

Mr Carr: I think Jerry had a question as well.

Mr Ouellette: I just wanted to ask a question. Have you made this submission in the past? If so, what was the reason for denial?

Mr Watt: I personally, on behalf of the client—

Mr Ouellette: Or has the organization?

Mr Watt: I'm just checking.

Mr Ouellette: Just the time frame was the reasoning why, then, as far as you know?

Mr Watt: Yes, that's correct.

The Chair: Hansard actually wouldn't have picked that up. If you wanted to put the statement on the record, they wouldn't have heard the statement from the back.

Mr Watt: My client has indicated that they've attempted to bring this matter forward in the past but had run out of time and therefore never properly presented it before any legislative committee.

Mr Murdoch: I sat on the land division planning approval committee for quite a few years in our area, and

it was always sort of a filler, because no one ever disapproved of it. Bell Telephone has a bit of a problem the same way too. Now sometimes they buy the land, but sometimes they have the same problem. It used to be that no one ever objected or anything because it was all looked after. So I don't know whether this is a bill to exempt or whatever it is, but I think you should look at it and see what we can do for them.

The Chair: If there are no further comments, thank you very much, Mr Watt. We appreciate you taking time to make the presentation before us here today.

SUDBURY EAST PROPERTY OWNER ASSOCIATION

The Chair: Our next group up is the Sudbury East Property Owner Association. Good afternoon. You've been in attendance, so you've heard me say the pitch, about 30 minutes for you to divide as you see fit.

Mrs Linda Gautier: All right, thank you. Good afternoon. On page 2, we are the Sudbury East Property Owner Association. We are here today on behalf of the 13 unorganized townships of Sudbury east, 600 members on petition, and are supported by our membership in the seven organized townships. The sole purpose of our association has been to change the laws in order that our members may acquire a severance of land.

My encapsulation: The area of concern that we want to bring to your attention is (a) Bill 20, part I, section 12, section 19 of the act, which states that on behalf of the unorganized townships, the planning board will act as if it were a council of a municipality, and the secretary-treasurer will act as if he were the clerk; and (b) the provincial policy statements, (1) designated growth areas, (2) residential infilling and (3) the grouping of rural areas and agricultural lands. There is a need for clear distinction as far as severance is concerned. There is a tendency of the planner to apply the same rules to rural as are applied to agricultural, as no clear statement has been made as to what severance would be allowed on a rural property.

We congratulate the government on the changes that have been made so far. Examples of these changes are (a) to allow local decision-making; and (b) to build more flexibility into definitions by changing wording from "having to be consistent with" to "having regard to." Also, congratulations on cutting the approval time in half.

Bill 20, part I, section 19, for the unorganized townships. At present, "In a planning area consisting solely of territory without municipal organization" the planning board will act "as if the planning board were a council of a municipality and the secretary-treasurer were the clerk" in regard to planning matters.

The people who control the membership of the planning board with regard to the unorganized townships do not necessarily have the interests of the local people at heart. This has resulted in major disputes between the planning board and local individuals. As it stands, the people in charge of putting together a planning board may be out of touch with the needs of the community.

We strongly recommend that all members of a planning board be elected and that they live right inside the planning area. This would include the secretary-treasurer.

Provincial policy statements: The provincial policy statements and Bill 20 go hand in hand. The areas that concern us are the clauses that refer to the designated growth areas.

Designated growth areas: The direction that the provincial policy statements have taken is towards settlement areas that are already set up, basically stating that where property is available in the urban areas or within the municipalities, no new lot creation will take place in the rural areas adjacent to these urban areas.

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People are leaving the rural areas because of these policies which do not allow for severance outside of the urban areas. They also do not allow for any economic growth to take place in the rural areas.

Residential infilling: The definition under residential infilling means the creation of a residential lot between two existing non-farm residences which are on separate lots of similar size and which are situated on the same side of the road and are not more than 100 metres apart.

Because of the residential infilling, we cannot get a severance if (1) our neighbour does not live close enough to us; (2) his lot size is different than my lot size; (3) he doesn't live on the same side of the road as we do; and (4) if I happen to live next to a farmer I also can't have a severance.

These rules block large-property severance entirely. Infilling discriminates against the larger property owners. We strongly recommend that infilling be removed.

Agricultural versus rural: We believe in protecting prime agricultural land and applaud the efforts that have been made in that direction. However, for the purpose of rural severance, we would recommend that a clear outline of what severances are to be permitted on large rural properties be worked into the policy.

Our conclusions: Bill 20 states that it is an act to promote economic growth. The provincial policy statements stresses economic development. In actuality, the restrictions on land severances within these two documents rule out economic development for the following reasons:

(a) Young people are leaving rural areas because they cannot sever property.

(b) New people are discouraged from coming into the rural areas because of lack of properties available.

(c) The existing infrastructure is not being used to its fullest.

A few additional homes along a rural route would not put any more burden on the infrastructure but would provide additional revenues to pay for that infrastructure.

Country-sized lots do not require city water or sewers. These requirements only eventually occur where homes are clustered together.

Impacts: Under the existing laws our properties are not ours. We are not able to help our children out by giving them a piece of land to start out in life. We are not able to sell a piece of property to help us in our own retirement. We are asking this panel to please help us change this.

Conclusions: Our recommendations are:

(1) Allow unorganized townships to elect their own secretary-treasurer and members of the planning board.

(2) Eliminate discriminatory practice of infilling; larger properties cannot meet these requirements.

(3) Allow a set number of severances to place on existing properties over the next reasonable time period. An example of this: Allow a property to sever on a two-plus-one basis, two severances plus the original parcel. Then there would be no further severances until policies are open for review in future, thus allowing government some measure of control.

Thank you for your time.

The Chair: The time remaining now is just over seven minutes per caucus. The questioning this time will commence with the third party.

Mr Bisson: I would like to thank you for your presentation. As you probably are well aware, there have been a number of presentations this morning that have touched on this issue. People have raised it to the point that most of us, I think if anything, understand this issue a heck of a lot better than we did when we walked in here this morning.

Per se, all I would say is that I don't have any particular questions other than to say I recognize what it is that you're trying to put forward, recognize there are some difficulties with the existing legislation as it exists. But in the end, whatever we do, we need to make sure that we find a way of doing it that doesn't totally throw the balance the other way, that just allows severances to happen without having any kind of regard for what the provincial policies are that are being proposed under Bill 20.

So I would just say that I'm sure the government members and opposition will be looking at this in greater detail as we go through clause-by-clause. I look forward to seeing what amendments the government is prepared to come forward with, but realize that Bill 20 now, as proposed, doesn't really change anything. There need to be some amendments brought forward by the government for this to be dealt with, and I look forward to what the government has to say.

Mr Baird: I'd also like to thank you for your presentation. I'm quite intrigued by it. It'll certainly give us all something to think about in our deliberations.

I appreciate your making the presentation here, particularly in Sudbury, so my colleagues can hear it. When we get outside of Toronto, I think we get a very different perspective, and I'm glad my colleagues were here to hear you. I'm disappointed, though, that your member of Parliament couldn't be here this, because I think it's something that's very plain and simple.

Mr Bisson: On a point of order, Mr Chair: It's not within the rights of the member to start indicating the absence of one member or another. I think the member for Sudbury East demonstrated an excellent knowledge of the issue and is prepared to work on the issue as she always has. I don't think that was really called for. It is unparliamentary.

The Chair: Reference was made earlier to the absence of Mr Hardeman, so I will overlook this, but I'll ask the member to—

Mr Baird: Ms Martel regularly makes reference to my absence.

I guess I just share your view with respect to, the people in your community know what's best for your

community. Coming from eastern Ontario, I will never have the great sense of knowledge that you possess in your community. I would just congratulate you on that, because I think one of the tenets of the bill is to put more control and authority of local concerns in the hands of local municipalities. So I would just congratulate you on that and pass it on to my colleague.

Mr Murdoch: We've had quite a few submissions, as mentioned by Gilles over there, on this same problem, and I think we're going to have to try to figure out some way to work differently with unorganized townships than with the organized ones. There certainly is a problem here. I know that's not the only issue, but we have to find a way of doing that now.

With Bill 20 we were trying to open up the process so that you would have more local autonomy. I understand the problem with the planning boards where they're appointed instead of elected. I guess some of the reason for that is because you are an unorganized township. There isn't maybe some way to organize it. You're suggesting maybe that your representatives to that planning board be elected. We're getting more organized all the time, and that may happen, and if that's to be, so be it.

I think, if we can work with Bill 20, that we can help you out and help solve some of these problems that you have been having. We may not be able to solve them all, but as far as I was led to believe, and so far believe, your rural severances will come about more easily in the next while. Now we have to get through this Bill 20 process. Have you looked at the provincial policy statement, the draft one, the new one?

Mrs Gautier: Yes, I have.

Mr Murdoch: You still feel that they're too restrictive, by what I see here.

Mrs Gautier: Yes, I do.

Mr Murdoch: If it's as bad as you're saying on here, then I have some problems with it too. I know our parliamentary assistant; I was talking to him, and I'm sure we can work some of these out, but rural Ontario's had the same problem with Queen's Park dictating everything, and I understand that. I know where you're coming from and I certainly would be glad to sit down with you and your local member and try to work these problems out. But these are only draft, so we'll certainly have some discussion over them before they're finally passed, I'll tell you.

Mr Ouellette: I just have one quick question. On page 7, your recommendation (3) about the two-plus-one basis: Do you have any lot size minimums or maximums on the that recommendation?

Mrs Gautier: Yes, the minimum would be a lot that accepts a proper septic and water, and a home, of course. A more rugged piece would require perhaps a bigger size; a sandy one perhaps is smaller. We're looking, in our area, at lots that go from 160-acre, 40-acre, 300-acre lots. It would depend on which township.

Mr Ouellette: So I guess it would be dependant on the area. The area would be the one to have to determine what should take place and what shouldn't.

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Mr Murdoch: Before we leave that, you've got to be careful getting into numbers. We have a terrible thing in

our area called the Niagara Escarpment Commission and they get into numbers. They really mess it up by numbers, because someone back in the early 1800s who allotted off a farm for a schoolhouse, they count that now as a lot. When you get into numbers, you've got to really be careful with that.

I think it's something we'd have to really look closely at, because you maybe fit one farm or one lot, but then the next person who comes along will say, "I should be able to do that." So it's really something we've got to be careful with. I think we should look more at it on the environmental side, as to whether it fits in or not and things like that. You've got to be careful getting into numbers.

Mr Hardeman: On page 6 of your presentation you suggest new people are discouraged from coming into the rural areas because of the lack of properties available. I wonder if we could get a view on that. In my area the fewer properties available, the more valuable they become and the more people want that property. I wondered if that's not true in northern Ontario.

Mrs Gautier: It has worked itself to the point where there is no property available in some instances. The restrictions have been so tight that we haven't been able to get a severance. Only people with smaller properties living closer to Sudbury have had success in getting their severances, in the Wanup-Estaire area.

Mr Hardeman: The other thing I just wanted a quick response on is the issue of having the members of the planning board elected. I think one of the other members—I forget which side and it's not relevant—mentioned that it's getting very close to some type of governance. Would you see that as an approach to governance?

Mrs Gautier: We were thinking along the lines similar to choosing school trustees, using that idea. I think yes, it is a little bit more towards that line. I suppose it is in that respect, because it is more of an organized approach.

Mr Hardeman: Would you see that this process would or could lead to these elected people being more than planning boards?

Mrs Gautier: I don't know the answer to that. I'm sorry.

Mr Hoy: Thank you for your submission. You've taken what we would call a balanced approach, where you don't want unfettered severances. It makes your application or your submission much more palatable for many people that you don't want unlimited severances in any number of areas. I think your approach is very good. We heard earlier today that people might own, for example, three 160-acre parcels, but for the purposes of severing they really only have one lot. That's correct?

Mrs Gautier: That's true, yes.

Mr Hoy: However, and I'm asking you if this is true, they receive three property tax assessment notices.

Mrs Gautier: Yes, they do.

Mr Hoy: So this would add to the confusion that they think they have three properties but they actually do not.

Mrs Gautier: Yes, it confirms it.

Mr Hoy: I found it rather odd that it occurs that way, that they get three property tax assessment notices but for the purposes of severing they only have one property.

Mrs Gautier: It's frustrating.

Mr Gerretsen: Just so that I have a better understanding of how your planning board is set up, there are six members of the board and they operate both the organized and the unorganized townships. Is that correct?

Mrs Gautier: There are six that are from the municipalities and there are three from the unorganized.

Mr Gerretsen: Right, and how do three people from the unorganized get put on there? How are they selected?

Mrs Gautier: They were chosen by Mr Cleo Roy and the planner, Mr King. I'm sorry. I should reward this. I was interviewed by Mr Cleo Roy and Mr King.

Mr Gerretsen: You submitted your name together with a group of other people and then three people were selected from that.

Mrs Gautier: Yes. I can only answer in my own level. I'm not sure.

Mr Gerretsen: Maybe we can get that clarified a little bit later on.

I think earlier Mr Hardeman put his finger right on it as to what the real problem is here. I mean this in all sincerity. One of the problems is that the infilling policy has been used here to not allow any severances of large tracts of land, whereas in southern Ontario—and I concur with Mr Hardeman. It has been my experience in the Kingston area as well that the infilling policy is something totally separate and is administered totally separate and apart from the rural severance policy.

But here somehow, either through ministerial staff or through interpretation of policy statements, it has been regarded as one entity so that the infilling notion has been effectively used not to allow any severances to take place, whereas really the two concepts are totally different. I can understand instantly, if you've got municipal water and sewer there, then you want some sort of control as to how many people log into that system. But that's got nothing to do with how many severances you allow 10 miles out of town. There's no connection at all. How do we get it through to the ministerial staff people? That's the real problem.

Mr Murdoch: That's what I told you already.

Mr Gerretsen: I'll tell you, it's a problem all right. But I'm sure Mr Hardeman will take this back. In southern Ontario, if his experience is anything like my experience in our two areas, which are separate and apart, infilling has nothing to do directly with the rural severance problems or concepts. They're separate and apart.

Mrs Gautier: I don't know if this has been done as an oversight by the local planning board or if it was meant to be that way, but this is the result our members have seen.

Mr Murdoch: John, sometimes it looks like they're using infilling to disallow and it was never meant that way.

Mr Gerretsen: I'm curious as to how this planning board gets established. I wonder if we could have all-party agreement to at least find out from somebody how the planning board—maybe Mr Hardeman's got the information there.

The Chair: Point of clarification, Mr Hardeman?

Mr Hardeman: My understanding is it's a nine-member board: six are appointed by the organized municipalities and, on the recommendation of the local

community, three are appointed by the Minister of Municipal Affairs and Housing.

Mr Bisson: Just on a point of privilege, Mr Chair: It's not—

The Chair: You haven't been slighted, so I doubt if it's that.

Mr Bisson: Just for the record, because there are members from the planning board here who are shaking their heads vigorously to the issue here, I wonder, so that we understand, if that can be clarified.

The Chair: Unless you take exception to the definition that Mr Hardeman has just made, I'd prefer that be done after the meeting. They've made a representation here before and we have one more group coming after, so in deference to that group, I'd like to respect the time frames.

Mr Gerretsen: We are 20 minutes ahead of schedule.

Mr Hardeman: If those are not the facts, we will report back to the committee and get it straightened out.

The Chair: Thank you. Do you have any further questions? We appreciate your taking the time to make a presentation before us here today.

As mentioned, we have one more group to make a presentation before us here today, the Nipissing Environmental Watch. I don't see anyone. We can take a recess. There's one more group and the clerk is presently endeavouring to see what the arrival time of that group will be. In the absence of the next group, this committee will stand recessed for 10 minutes.

The committee recessed from 1539 to 1550.

NIPISSING ENVIRONMENTAL WATCH

The Chair: Much as I hate to break up the socializing, we are joined by our last presenter of the afternoon and so, in deference to all those in attendance, I'd like to proceed. Our final group today is from the Nipissing Environmental Watch, Mr Vandermeer. We have 30 minutes for you to use as you see fit, divided between the presentation and question-and-answer period.

Mr Jan Vandermeer: Good afternoon. My presentation is relatively brief. I'm sure you've heard statements from many, many people dissecting this thing every which way. I don't think I'm competent enough to do those sorts of things, so it's a slightly more personal approach and I've based much of what I'm saying on the provincial policy statement that's coming into effect when the bill is proclaimed. So I will read this. The start of it is based around the initial statements in here, the principles and policies, and it sort of spreads beyond there.

Statement 1, economic growth: I take exception to the linkage which implies that efficient development and land use will stimulate economic growth. Efficient development and land use will encourage continued economic prosperity. Growth need not, in many instances, and indeed should not be the prime motivator for determining the future benefits to a municipality or the province. Other mechanisms must be brought into play which will allow the redistribution of that prosperity so that more may benefit.

In my home of North Bay, the population base has not changed in years, and yet I get a sense of prosperity in

the community. The municipal council has constructed bike and walking paths and opened up the waterfront for the greater public good. All have benefited. Further planning decisions should address the greater public good, the sense of place that Lake Nipissing, Trout Lake and a verdant Nipissing Ridge give a community like North Bay. This is especially true given the declining local real estate market. There are few or no purchasers for existing homes or lots already created.

Developing strong communities, statement 1.1.1(c)1: I take exception to this statement. That we should even consider expansion into any prime agricultural areas I cannot accept. Maps of prime agricultural lands of the 1950s compared to those of the late 1990s show that we have already paved over vast portions of prime agricultural land. Is this province self-sufficient in foodstuffs or is the present thinking that we can eke more productivity out of less land and require less land base to produce foodstuffs to support our population base?

We enjoy produce shipped to us from many points of the globe. Esoteric peppers come from Holland and Morocco by air, but the majority of our mainstay winter foodstuffs come by truck from Florida, California or Mexico. These trucks travel over a deteriorating road network in the United States where over 40% of all bridges have to be replaced in the next decades. A reduction in our prime agricultural land base implies an increased dependence on foreign foodstuffs delivered over an increasingly unreliable transportation network. We should be working towards reclaiming some of our prime agricultural land, not sanctioning the removal of these lands from productive use.

Natural areas protection must be more explicitly recognized: We accept and indeed welcome some forms of development. Development is not bad for the environment. Badly planned, ill-considered planning is bad for the environment. We need good planning, soundly based planning that does not change direction with the political flavour of the times. We should be really planning for the long-term future of our communities. Official plans should embody the practical, long-term future of an area, not just reflect whatever trends are being pushed at the time. This is flavour-of-the-month politics.

I know of at least one property owner in Toronto, owning several high-rise apartments, who has left the province because he did not want to endure the financial uncertainty that policy changes at a political whim imposed on him. Many in the province recognized the need for planning reform; many welcomed clear provincial guidelines and stronger environmental positions. The province was addressing its mandated task and providing one window on a level playing field.

Growth: The thrust of the policy paper is that growth is required for economic prosperity. I believe this to be an unwarranted assumption. Growth cannot continue indefinitely if any desirable quality of life is to be protected. I believe that a community would be a more desirable place to live and would be able to ensure its own prosperity if the planning process focused on an optimal size and an optimal growth rate. It could then ensure that development and the provision of services moved along at the same rate. The uncertainty of provin-

cial and federal funding for municipal projects and infrastructure means that municipalities should concentrate on the upkeep of what they already have before approving increased development which will commit them to providing services they can ill afford.

The emphasis on growth without explicit statements of urban and central core renewal put me in mind of the city of Troy, which archaeologists have excavated and found seven different cities, one built on the next. The difference with our emphasis on growth and expansion is that we will not build on the ruins of the previous city but leave the empty, rotting husk at the core and bring more lands under asphalt and well-fertilized lawns while expanding over natural green spaces.

Natural heritage protection: Development thrusts have had significant impacts in the Great Lakes-St Lawrence areas, areas off the Canadian Shield. Commerce and industry should be given strong incentives to develop in areas on the shield. The example of Elliot Lake, which has taken a liability, what was perceived as a liability at first, and turned it into a commodity should be taken as a paradigm. It is selling itself as a retirement living community with amenities tailored to the needs of their target audience and this could provide an example of the direction we could go.

There are large tracts of land in northern Ontario which could be developed into desirable communities that would appeal to business, commerce and industry. Many of our present development patterns have been laid down by historical or economic principles which no longer hold true. An example of this would be communities which were developed along major waterways because it was the only feasible and only cost-effective means of transportation. By developing communities in the north many of the pressures on prime agricultural lands and natural areas in southern Ontario would be alleviated.

In closing, I would like to emphasize that planning and development need to be considered in the context of an ecosystem-based approach not, as the tone of this present document implies, that the natural environment and the functioning of the ecosystem on which we still depend are an incidental afterthought or mentioned simply to keep environmentalists quiet. Thank you.

The Chair: Thank you, Mr Vandermeer. Questioning this round will start with the government. We have seven minutes per caucus.

Mr Galt: Thank you for your thoughtful presentation. Just to make a few comments in the general area of agriculture that you were making reference to, certainly quality agricultural lands need to be held and looked after and maintained for agricultural purposes.

What we were hoping to do was blend into this some flexibility. Let me give you an example in my area where they found a small strip of what they claimed was quality land, but most of it was very poor quality, sandy, unable to really grow a decent crop because of the unevenness, and this particular farmer wanted to convert it to a golf course, a long way from paving it over, but because of the present regulation as it relates to agricultural land, this particular individual was unable to get permission to proceed. To me, this was an ideal way of holding land for future use when it wasn't being paved.

That's the kind of flexibility we're looking at in the policy statements. We're making reference to agricultural centres of activity where quality land is rather than looking at every little bit of a few square feet of quality land and stopping growth in those areas. Do you have any problem with looking at these centres rather than the way it has been in the past?

Mr Vandermeer: Not per se. I think we have lost probably far too much class 1 agricultural land. I sort of sympathize with the position. I own shares in a farm near Peterborough that is on very poor land. It's a miracle that the farmer who owned it previously was able to eke any existence out of it whatsoever, and we ran into difficulties trying to get any changes to the zoning there as well. Obviously, there are gradations of land. People in agriculture know these things. I think the prime agricultural land should receive higher levels of protection than perhaps, by whatever criteria they deem them, lower levels.

1600

Mr Galt: If I can have one more question, you were making reference to developing communities in the north to save the agricultural land in the south. It is colder in the north. Do you think with the other natural resources—the water, the clean air—people will flow to the north, to communities, if developed?

Mr Vandermeer: I think it's the sort of thing—I'm not one particularly for marketing, but I think Elliot Lake has done a tremendous job of marketing itself to people. I heard a story just recently about Bob Izumi, who was invited up to do a tourney there. They weren't able to pay him, but they gave him 10 lots. They marketed themselves so well that he turned over a 200% profit on his 10 lots. You need people with bright ideas, and I think you need to sometimes focus people's attention on a particular issue. Natural area protection and agricultural land protection in the southern area are very important issues, and this province has a huge land base.

Mr Galt: That was not a negative question. I personally enjoy the cold very much. Thank you.

Mr Vandermeer: I live up here by choice as well.

Mr Hardeman: You spoke about not using up good agricultural land for the expansion of our urban centres; I guess "urban sprawl" is the technical term that's been used for it quite often. Today we've heard a lot of presentations about how we should have less control or less restrictiveness in the north to allow more development and more building of residential properties in the area, particularly the unorganized territories in northern Ontario.

Would you have any comments on equating those two? Would you see it, from an environmental point of view, as more appropriate to allow this type of development in areas such as the Sudbury area, and Sudbury East in particular? Is that a better approach than extending the urban centres?

Mr Vandermeer: I will respond to it but I will preface the response by saying I honestly don't know enough and the response comes just from what I feel. We are a northern community—and by community, I mean Canada as a whole—and we have looked south so much. I think we should be looking to the north more. Part of doing

that is again having the right idea to sell living up here, like, as I said, the people in Elliot Lake. There's a lot to be said for it, and we've developed ways of living up here. Houses can be properly insulated so that your heating costs are not substantially different between living in an older home in southern Ontario and in a well-built house up here.

I'm not a snowmobiler myself, I cross-country ski, but those sorts of things can be very effective for marketing living up here to people. I think the snowmobiling association has done a tremendous job in the north in reaching tourists from further south and I think we can probably expand on that sort of thing and get people living up here.

The more direct answer is, yes, I would like to see more development up here. I don't think it should be less regulated, but it should be directed towards encouraging growth in northern areas. Does that sort of tangentially come at it?

Mr Hardeman: I think it answers my question, except for the last statement, when you said it should be regulated but we should have more development. One of the things we've been hearing today is that in the past it's been too regulated and it needs to be loosened up even further than Bill 20 would propose to do. I wonder if you have any comments on whether that is the appropriate way to go.

Mr Vandermeer: I don't think it should be left open. It still needs to be controlled. We have probably learned some lessons from—I mean, let us learn from the past. It needs to be focused in a different direction.

Mr Hardeman: I was just telling you my son lived in Sudbury for five years, and he says it's better than southern Ontario.

Mr Vandermeer: Well, we moved up for that.

Mr Hardeman: I don't believe him on other matters too, but—

Mr Gerretsen: Oh, oh.

Mr Christopherson: You're not on the plane yet, Ernie.

Mr Hardeman: Because of the cold, of course.

The Chair: Any questioning from the official opposition?

Mr Hoy: Good afternoon and thank you for your presentation. I too share your concerns about agriculture. Historically, societies around the world have moved and migrated, either by walking or by some form of ship that they had at the time, to the most fertile lands they could find. Now the world population is deemed to be nine billion here in some very short years, probably within my lifetime, hopefully. So we have these huge cities expanding on some of the best land in the world. It not only happens in Ontario, Canada, but in other jurisdictions.

I'm saddened that the government would remove a funding program that would have helped to preserve the fruit land in the Niagara region. So you wonder what their commitment is to agriculture and the preservation of certainly an area that is unique to the country.

I'm also disturbed that in the policy statement of December 1995, under the heading "Essential ingredients for long-term economic prosperity will be provided by,"

agriculture is named sixth in a list of priorities. I find that saddening too.

But I appreciate your presentation this afternoon and I wanted to make those comments to you, that there is a competing use of land: one development, one agriculture. And there could be others: tourism etc. We have to be very careful. Once you pave over, build on or dig up prime land, it's generally lost forever.

Mr Gerretsen: Just a further comment. First of all, it's unfortunate, as I made the comment earlier today, that basically the Planning Act that we've been talking about is process, and unfortunately this committee has not been mandated to deal with the policy statements, because it's very difficult to deal with one without the other. The policy statements are really where it's going to happen, not so much in process, whether it's X days or Y days that it takes certain things to get through. I guess that has been totally lost in the process, so I'm glad you brought it back to the policy statements.

To Mr Hardeman I would just say that there's a major difference between treating agricultural lands as secondary or allowing them to be paved over by subdivisions or developments—and I know the pressures are there—and not allowing somebody with a 360-acre piece of land up here to sever it into two bits. To compare the level of development of creating the one extra building on a huge parcel of land with the level of development that would take place in an urban area is like comparing peanuts to, I don't know, elephants, I suppose. There's no connection at all, in my view.

What I'd like to ask you is whether you agree with me, dealing with the prime agricultural areas, that this negative connotation in the policy statement that expansions can only take in prime agricultural areas where there are no reasonable alternatives which avoid prime agricultural areas is almost like putting the emphasis on the wrong track. Would you agree with that?

Mr Vandermeer: I think I have something of that reading. We all base what we say on past experience, and it seems to me that you have too much of yet another little severance, that a farmer has seven sons and there are seven little bungalows lined up along the road, and the net sum is a substantial piece of agricultural land. I think that needs to be more closely controlled.

Mr Gerretsen: I appreciate your presentation. Thank you. It's too bad we couldn't spend more time on the policy statements.

The Chair: Questions by the third party?

Mr Bisson: Just a general comment for members to know right away is that in northern Ontario, agricultural land is at a premium. It's not something that we have a lot of. We have a good, viable agricultural community in different parts of the north, and what I would say is that we need to make sure that whenever we do planning, we don't put ourselves in a position of taking out whatever little land we have in our land base for development that could be used for agriculture, because we heard here today where a lot of pieces of land around here are not suited for agriculture. It's a different issue when you sever that to when you sever in my area, where you do have agricultural land. So I'd just put that out.

I want to come back to the provincial policy point, because I really believe the meat of this whole issue is going to be how good and how well drafted the provincial policies are going to be as they relate to the legislation. If the policies are not clear and the mechanism in Bill 20 is not clear in how to deal with that in regard "having regard for" rather than "being consistent with," we may end up in the end with more—never mind inconsistency—difficulty in interpretation about how to do good planning in the province of Ontario that may lead to more appeals to the OMB. It might be counterproductive to everything we're trying to do here.

1610

I guess the question I have for you is twofold. The first question is, in moving away from "being consistent with" provincial policies and moving towards "having regard for," do you not think that we're running the risk of making things more unclear for developers and people in the planning business, that we may end up in the end with a worse situation when it comes to appeals before the OMB? Do you have any sense?

Mr Vandermeer: I find this "having regard for" and the other interpretation difficult to read into. The context that I get is from some of the environmental groups who somehow have a better sense of semantics of these words than I do. On that basis, I think "having regard for" is less restricting and hence could conceivably open a substantial door for appeals to the OMB and more ambiguity in the interpretation. But it's a hard read.

Mr Bisson: I would just caution the government to be really careful on this, because I think you can end up in a worse spot.

The last part is that about a year ago, Mr Murdoch was with us on a committee that dealt with sustainable forestry development. He would have heard presentations throughout northern Ontario where a number of people in the logging business, either pulp and paper or dimensional logs, were really opposed to what we were doing as a government in regard to trying to bring in sound management practices when it comes to how we manage our forestry industry in making sure that we have good policies in place that deal with how we first go in and cut, and then after, how we reforest our forest itself.

At the time, industry reacted to that, I wouldn't say altogether badly; some of them were in support, but some of them really had a problem with it. In the end, we see now that it's been in place that it's working not badly. But the thing that's really interesting is, I'm reading trade magazines now and the industry is starting to position that in a way that it's actually good for the economy and good for their industry because it positions them in regard

to countervail duties—arguments that the States have been making that we've been hearing lately with the agreement between BC, Quebec and Alberta have been on those issues. Ontario has not been in the same position of being pressured by the States because we have put a more responsible approach for the companies on it.

Where I'm going with this is, if you have good planning policies, it seems to me that in the end that only adds to your ability to attract investment if you do it right in the first place. If you have bad planning policy and you don't allow good planning to happen, who the heck would want to establish a company in a place where you don't have good facilities, good planning, good approaches? I'm wondering if you can comment on that.

Mr Vandermeer: I think one of the criteria for people relocating is having many recreational amenities and not, ideally, being adjacent to a pulp mill, something like that. Good planning allows for that.

Mr Bisson: The last point I'm going to ask you, and here's the tough question: At what point do the economic concerns override the needs for good planning? Really, that's what we're talking about here. The government is saying, "We want to be more efficient," but the buzzword about efficient—and I understand. That's their choice as a government, that they want to allow development to happen a lot easier, which means to say there's less stringent requirements when it comes to the environment and other concerns around the environment. In your view, at what point does the development become more important than issues having to do with our environment? Where do we draw the line?

Mr Vandermeer: I lean towards more environmental protection. I think it's in part redressing a balance. I can't put it on a piece of paper and yea or nay it one way or the other, but as I say, we should be redressing a balance to some degree.

Mr Bisson: But when you're saying "redressing the balance"—

Mr Vandermeer: I think the environmental stuff has received short shrift. As a province, if you look at southern Ontario, we've lost so many of the wetlands. We've lost a lot of agricultural land. I think we need to be a little bit more stringent about protection.

Mr Bisson: Okay. I heard you.

The Chair: Thank you very much, Mr Vandermeer. We appreciate your coming all the way from North Bay to make your presentation here today.

That concludes our agenda for this afternoon. The committee stands adjourned until tomorrow morning, 9 o'clock, in the Delta Hotel in Ottawa.

The committee adjourned at 1616.

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Chair / Président: Gilchrist, Steve (Scarborough East / -Est PC)

Vice-Chair / Vice-Président: Fisher, Barb (Bruce PC)

*Baird, John R. (Nepean PC)

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*Lalonde, Jean-Marc (Prescott and Russell / Prescott et Russell L)

Maves, Bart (Niagara Falls PC)

*Murdoch, Bill (Grey-Owen Sound PC)

*Ouellette, Jerry J. (Oshawa PC)

Tascona, Joseph (Simcoe Centre / -Centre PC)

**In attendance / présents*

Substitutions present / Membres remplaçants présents:

Bisson, Gilles (Cochrane South / -Sud ND) for Ms Churley

Carr, Gary (Oakville South / -Sud PC) for Mr Maves

Galt, Doug (Northumberland PC) for Mr Tascona

Gerretsen, John (Kingston and The Islands / Kingston et Les Îles L) for Mr Duncan

Hardeman, Ernie (Oxford PC) for Mr Carroll

Smith, Bruce (Middlesex PC) for Mr Chudleigh

Also taking part / Autres participants et participantes:

Martel, Shelley (Sudbury East / -Est ND)

Clerk / Greffier: Arnott, Douglas

Staff / Personnel: McLellan, Ray, research officer, Legislative Research Service

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ISSN 1180-4378

Legislative Assembly of Ontario

First Session, 36th Parliament

Official Report of Debates (Hansard)

Wednesday 21 February 1996

Standing committee on resources development

Land Use Planning
and Protection Act, 1995

Assemblée législative de l'Ontario

Première session, 36^e législature

Journal des débats (Hansard)

Mercredi 21 février 1996

Comité permanent du développement des ressources

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
RESOURCES DEVELOPMENT

Wednesday 21 February 1996

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DU
DÉVELOPPEMENT DES RESSOURCES

Mercredi 21 février 1996

*The committee met at 0900 in the Delta Hotel, Ottawa.*LAND USE PLANNING
AND PROTECTION ACT, 1995LOI DE 1995 SUR LA PROTECTION
ET L'AMÉNAGEMENT DU TERRITOIRE

Consideration of Bill 20, An Act to promote economic growth and protect the environment by streamlining the land use planning and development system through amendments related to planning, development, municipal and heritage matters / Projet de loi 20, Loi visant à promouvoir la croissance économique et à protéger l'environnement en rationalisant le système d'aménagement et de mise en valeur du territoire au moyen de modifications touchant des questions relatives à l'aménagement, la mise en valeur, les municipalités et le patrimoine.

OTTAWA-CARLETON HOME BUILDERS'
ASSOCIATION

The Chair (Mr Steve Gilchrist): Good morning. In our continuing effort to seek maximum input on Bill 20, criss-crossing the province, we are pleased to be in Ottawa today. Our first group up is the Ottawa-Carleton Home Builders' Association. As you're probably aware, you have 20 minutes to use as you see fit divided between presentation time and questions and answers.

Mrs Caroline Castrucci: Good morning. My name is Caroline Castrucci and I'm president of the Ottawa-Carleton Home Builders' Association. With me today are other association members, Dan Paquette and Ron Clarke, from our builder-developer council. Briefly, the Ottawa-Carleton Home Builders' Association is the voice of the residential construction industry in the Ottawa-Carleton region, representing over 300 member firms. Our members produced 97% of the region's housing last year.

There is much in the new Planning Act to be applauded and we are pleased to see the Minister of Municipal Affairs and Housing move so quickly to offer needed reforms to the previous Planning Act. The changes proposed will restore balance to the development process and will clearly accelerate the decision-making process for approval authorities. Quite simply, Bill 26 is what doesn't work.

Our association does have some observations and suggestions to further improve the legislation. I will now pass the presentation over to Ron Clarke, who will offer certain comments with respect to the proposed legislation. Ron will be followed by Dan Paquette, who will present our association ideas concerning future planning reform.

Mr Ron Clarke: I'd just like to point out that we did prepare a written brief, which summarizes some of the comments that we're making here.

It was just over a year ago that we were here in a similar setting, submitting a brief to a standing committee on Bill 163, and those of you that were following the issue then may remember that our association had serious reservations with that bill. In our opinion, despite the claim that that bill would empower local government and streamline the planning process, we didn't agree with that. Bill 163 was enacted and what we feared would happen in our opinion did. We were left with a process that was more cumbersome, more complicated. Municipalities weren't given more power; they were just given more tasks. You've already heard about this from AMO, no doubt.

For the home-building industry, the timing couldn't have been worse. We've had one of the worst years in memory, and a more cumbersome planning process has compounded that problem and discouraged growth and investment. We do feel that a change is needed. We need more certainty in the process and we need a balance. We, in general terms, believe that Bill 20 is helping to strike that balance.

It introduces several changes which we do support wholeheartedly. However, we understand that there may be other interests in the province that are going to request this committee to undo some of the proposals that are put forward in the bill. In that context, we'd like to recount and reinforce some of the changes that we support and urge you to maintain and reinforce.

One of the fundamental changes is the "shall have regard to" component of the act, which will be brought back via Bill 20, replacing the "be consistent with." It's a return to an environment that had been around for close to 15 years in the province. There's a lot of case law related to it, people understand what it means and we believe that it works and allows policy to be implemented in a fashion that's sensitive to local issues and local sensitivities.

In general, we support the shortened time frames put forward in the bill for all of the planning processes. We think this is critical to the system. We see no reason why our approval authorities can't meet the time lines. Our experience is that the more time that is given, particularly to commenting agencies, the more time that is taken. We feel that the shortened time frames will require municipalities to take more autonomy in the process, to make their own assessments, to make their own decisions and not to rely on the process alone.

Another change that we strongly support is the business of deleting the requirement for a public meeting in

the plan-of-subdivision process. This is something that we vehemently opposed in Bill 163 and we're glad to see that it's proposed to be taken out in Bill 20. Prior to subdivision approval, we all know that land use details are confirmed in official plans and zoning bylaws. A third public meeting we believe is redundant; it has to go to keep the process streamlined.

Another change that we'd like to reinforce and support is in section 9 of Bill 20, which adds new sections to section 17, which enables the approval authorities—here in Ottawa it's the regional government—to exempt certain official plan amendments from upper level approval. This is something we've been suggesting for years and we're glad to see that policymakers have seen the light of day on this issue. There is no need for the majority of official plan amendments to undergo a second process which merely duplicates the process they have undergone at the local level.

In our brief, we've added a note here on our thoughts on this issue. We'll be working with the region of Ottawa-Carleton to push for a blanket exemption of the majority of official plan amendments here, except under some circumstances where there is a certain core interest of the province or of the region, the theme being that the majority of amendments be approved at the local council level.

Also on official plan amendments, we support the replacement of the referral requests, referral to the Ontario Municipal Board, with a direct appeal process. Our experience here in this region is that the referral process has not been effective, although it would seem that it would be keeping power here in Ottawa-Carleton. It hasn't seemed to have been implemented well, and we'd prefer, as an industry, to get straight to the board, carry on our alternative dispute resolution in that arena as soon as possible.

Just one final point that I have relates to the role of the OMB. We support the OMB in its function as the dispute resolution body for Ontario. We acknowledge that it's been working a little better in the last year or so, but applications that go to the board can still take up to a year. We're asking the committee, through whatever recommendations you might be able to make in the context of this bill, to support the OMB and to bolster its professional staff and its resources so that it can operate more effectively.

I'd like to pass you now to Dan Paquette, who has some other issues for future work.

Mr Dan Paquette: Good morning. I'll be referring to section 4 of the brief before you. Now that Ron has told you how good a job Bill 20 does for the industry, there are still a few ghosts in the closet as far as we're concerned. I'd like to share a couple with you. There are four identified in the brief, but I'll raise two for your information, matters that could be addressed under either Bill 20 or future legislation.

One of the issues that we still face as an industry that's problematic is the direct overlap between the Planning Act and the Environmental Assessment Act. Often work done under the Planning Act is directly duplicated under the Environmental Assessment Act. Facilities such as roads and transit corridors which are properly planned for

at the master plan stage are then studied again under the Environmental Assessment Act. These EAs at the beginning cost a lot of money and they basically do not add anything to the plan because they are a confirmation that we got the road and the transit corridor right in the first place. This is an area that could be improved; this is just outright duplication.

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An example of this is in the east urban community here in Orleans. We've been planning for the last five years, at a cost of over \$1 million of money spent, primarily developers' money, working with the municipality in perfecting a master plan community for 10,000 units, 40,000 population. We've nailed down the Transitway corridor, which is a major facility that's going to run through this new community, and now the region is having to conduct an environmental assessment to confirm the location of that corridor, at a cost of who knows what—thousands of dollars. This is an area of duplication, something we could all benefit from by having it dealt with.

Another area that needs to be looked at is parkland dedication. The Planning Act has rules and we've all been living by them. If I'm going to build a residential subdivision, I've got to dedicate 5%, or one hectare for every 300 units, as parkland. That's fine. The experience is somewhat different. Some of the local municipalities in this area, through their official plans, have enshrined rights that are way in excess of the Planning Act. Kanata, for instance, requires us to provide 1.6 hectares per 1,000 people; in equivalent terms, that's 60% higher than the Planning Act. Gloucester could go as high as 2.02 hectares per 1,000 people, which is 100% higher than the Planning Act.

These are issues that arguably were enshrined in this official plan—in the case of Gloucester, they have the act that permits it. The official plan stuff you could argue, "Why didn't you appeal it, industry, at the time the policy was passed?" These policies are older than me, I guess. I don't know, maybe the industry was sleeping when those policies were passed at the official plan stage, but something's not right when the Planning Act says 5% and one hectare for 300 and some of the municipalities are 60% or 100% higher than that mark.

On parkland, another big issue is double-dipping occurring as a result of two pieces of provincial legislation that require parkland to be acquired. The Planning Act, as I laid out, is 5% or one hectare per 300. The Development Charges Act gives the municipality the ability to collect money. That money, paid by developers when they buy a building permit, can be used towards the purchase of parkland. So the net result of that is that the developer is dedicating parkland under the Planning Act and then having to pay for parkland under the Development Charges Act. That, in our mind, is double-dipping. Those are two pieces of provincial legislation that need to be looked at relative to one another on this issue.

There are two other items identified in the brief, but we want to give some time for questions and answers. That basically summarizes my portion.

Ms Castrucci: This concludes our presentation and now I'd like to open the floor for questions.

Mr Robert Chiarelli (Ottawa West): I appreciate a number of the improvements in the legislation, something the building industry has been looking for for some time. But I'd like to take the opportunity, now that you're here, to ask a question, and perhaps you can give some advice to all the MPPs here. In the current economic climate, I'm not sure that changing some laws and regulations is going to kickstart the industry and get some activity going and get some consumer confidence under way. Can you give us any advice on what we in the Legislature can do to kickstart the building industry in Ottawa-Carleton and across the province, any one of you?

Mr Paquette: I'll take a shot at that. Effectively at this stage, 1995 was Ottawa-Carleton's worst year for housing starts since the Second World War, to provide a historic piece of information there. What's it going to take to kickstart this industry? Regionally, there are a number of issues that need to be resolved before we could get back to business, but there's no question that what the province could do is help us with the streamlining efforts being proposed in Bill 20. The Development Charges Act is probably the number one problem for our industry. The fact that municipalities have been able to collect, in the case of some municipalities—Nepean for instance, has the highest development charge in Ontario for a single-family detached home, in excess of \$9,600 for the local levy, of which about 40% to 50% is based on soft costs—libraries, books—things that we have argued can be funded through other means. So if you're asking me what one thing the province could do to help our industry, it would be a rethinking of the Development Charges Act as the number one priority.

Mr David Christopherson (Hamilton Centre): Thank you for your presentation. I was struck by the fact that you've taken, as have other home builders' associations, I understand, a position that the change from "shall have regard to" to "consistent with," is a change you're quite comfortable with because, quoting your document, "It will also allow the implementation of a policy in a fashion that can be sensitive to local circumstances."

Yet under points for further reform, when you were talking about parkland dedication you spoke of the formula in Kanata and Gloucester as being out of whack with the Planning Act and asked the provincial government to do something about that. I find the two positions somewhat contradictory: On the one hand you want little control at the provincial level so that local decisions and local sensitivities can be taken into account in setting policies, yet on the other hand, when you find something you don't like in a local municipality, you call upon the provincial government to step in and put it back in line with a provincial guideline. Can you help me with that?

Mr Paquette: It appears to cover my material a bit closer. I think the issue there is fair rules across the board. With respect to parkland, what we're reading is two sets of rules. While we understand the principle of local empowerment as being advocated in this Bill 20, for larger-ticket items like parkland, we need to establish a common base to work from. We're suggesting that the Planning Act was that base. We're suggesting that this matter be looked at and deal with the issue of overdedication. Maybe Bill 20 is a policy that requires municipal-

ities to compensate developers when there is an overdedication occurring beyond the Planning Act. I'm focusing on the parkland issue here, and I see that as an issue where the province can have a role.

Mr John R. Baird (Nepean): Thank you very much for your presentation. We appreciate it. Just to follow up on what Mr Chiarelli said, section 4 of your document is certainly something we should take back to Queen's Park and discuss with our colleagues. Your point is well taken in that regard.

Having said that, the purpose of this bill is to try to streamline the process and expedite the decision-making process, re-establish a balance, basically to say that local decisions are better than solutions from Queen's Park.

What effect would this bill have on your industry with respect to your operations and your economic growth and job creation?

Mr Clarke: We feel strongly that the bill will create an atmosphere more conducive to growth and investment here in Ottawa and across the province. The previous bill produced a lot of fear and a lot of uncertainty. We know of a lot of development projects that probably would have gone ahead, but due to the uncertainty they did not. The shortened time frames will give the industry some security that applications will be processed, processed well and processed quickly, so the industry can operate in its true market fashion.

Mr Baird: Obviously, there's no easy answer to economic growth and there's no one action the government can take to re-establish the success your industry enjoyed here in Ottawa-Carleton in years past, but we're keen to look at every reasonable proposal to balance the interests, to make a contribution towards economic growth.

The Chair: Thank you for taking time to make a presentation and bringing your comments forward to us.
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ROBERT VAN DEN HAM

The Chair: Our next presentation will be from Mr Robert van den Ham, councillor, regional municipality of Ottawa-Carleton. Good morning.

Mr Robert van den Ham: Thank you, Mr Chair. You've received a copy of my submission, and I'll probably be reading the majority of that.

Chair and members of the committee, good morning and welcome to Ottawa-Carleton. My name, as mentioned, is Robert van den Ham. As a representative of approximately 30,000 rural people in the region, otherwise known as the RMOC, I'm grateful for this opportunity to convey to you some views and comments that I believe are supported by a large majority of these constituents.

Bill 20 and the draft policy statement are a solid step in the right direction. This attempt to bring in a planning system that is faster and less bureaucratic must be embraced. The province's examination of its own policies and separating out key provincial interests from local matters will give municipalities the flexibility they've requested—the flexibility they require—to maintain their autonomy and accountability.

A case in point is the decision to repeal the accessory dwellings of Bill 120. Another example is the change in

wording to "have regard to" policy instead of "be consistent with."

Most rural people will welcome some rational realignment of unjustified environmental restrictions. Rural land owners are anxiously awaiting finalization of regional wetland policies and the development of the natural environment system strategy, otherwise known as NESS. I won't go any further on the NESS bit.

Current provincial policy obligates municipalities to review the natural environment for provincial and regional significance. Utilizing the proposed criteria to identify significant areas virtually removes all lands, except those actively farmed or developed, from any possible multiple use. This essentially is an environmental lobby land grab, without scientific justification. The Sewell commission, wetland and NESS policies, aggregate banking, conservation designations and development reviews are all part of a story of preservation of rural land at land owners' expense.

If some species or ecological systems need absolute protection, these areas should be bought from the owner for the common good.

Ultimately, it is the final municipal policy that is important to rural land owners in this overall exercise, and certainly the increased flexibility that Bill 20 will be providing will lend to a more harmonious type of policy that people can live with.

The proposed provincial policy is less prescriptive yet allows municipalities to go beyond the minimum standards established, unless doing so would conflict with any other policy.

The regional municipality of Ottawa-Carleton has been and will continue to be an area of man-induced activity where development, recreation and commerce are necessary.

I'd like to give you an example of integrated use, environmental protection and land owners' rights in a reasonable manner. This is an actual example submitted to me by the owner of this country estate subdivision. It is on the edge of a class 1 wetland. Drainage outlets which taper into the wetland are probably one of the most environmentally sound drainage plans in the region. In addition, he mentions that deer, turtles, raccoons, porcupines and all the good stuff, including 1.5 acres of trees, remain on each lot. Development has gone hand in hand with conservation. The owners of the lots that run into the wetland have a management agreement with MNR to protect the wetland functions. The man mentioned that MNR could not afford to do that—or could chose not to do that. I'm not going to debate that point.

If these people had tried to develop this property after the 140-metre—I think that's a typo; I believe it's 120 metres—buffer zone had come into play, it would have been hopeless and would have been disenfranchised. The person would not have been able to develop under the current legislation with wetlands policies. Undoubtedly, the landscape has been altered, but development and conservation have occurred together, all at no cost to the taxpayer. He goes on to mention that a tour of this integrated subdivision is available to show people how it works and how it functions.

The tone of Bill 20 and the policy statement is healthy and encouraging. This positive tone, however, must also

accompany implementation guidelines which are to follow. Other provincial ministries and their respective field offices—and I feel this is very key—must also embrace less bureaucracy and exercise more flexibility so that everyone is on the same wavelength and we can all focus on the expected results.

Members of the committee, my presentation today is one of general support of Bill 20 and the new direction. The bottom line is that we must all work together to provide an appropriate balance to the people of Ontario and the appropriate balances between development, environment, and in my case, representing rural people, land owners' rights. That would probably cover across the board.

In summary, I support Bill 20 and the flexibility to lower tiers. I support less restrictive environmental guidelines. I also support the principle of compensation for areas that need absolute protection. Thank you.

Mr Christopherson: Thank you for your presentation. I wanted to address your position on the change in policy from "be consistent with" to "have regard to." You spoke in your final wrapup comments of the need for balance between development and the environment. I'm finding that's a phrase that everybody wants to use, but "balance" of course is a very subjective word. The purpose of the existing legislation is to ensure that there are minimum standards of environmental protection province-wide, and that's why it says "be consistent with," to ensure that those minimums are maintained. I would suggest that it's not so much the balance that's the issue but rather that you'd like to see the yardstick lowered in terms of where it's now set to protect the environment. Your thoughts on my comments on that would be one point.

Second, as a former regional councillor myself, I am very much aware of the impact of one community taking a position, particularly with regard to accessory dwellings, and another community not. What happens is that you have a concentration of affordable housing in communities that, in my opinion, are progressive and trying to invite people in, and other communities that, for whatever reason, decide to be more exclusive and create an entirely different environment. You have, in effect, two worlds out there. That may be fine for some folks, but at the end of the day, looking province-wide at the need for the people of Ontario, I suggest that falls very much short of the kind of housing policy and planning policy that the people of Ontario are entitled to. Could you comment on those two points for me.

Mr van den Ham: I'll just start with the lowering of standards. I don't know if I'm suggesting lowering of standards, but I do believe that the environmental restrictions in place are too severe. If you want to call that lowering those standards, yes, I would agree with that to a point, and I think everyone has to find their own balance. If the province wants to set the minimum standards, then certainly municipalities have to follow those and then can be more restrictive. In terms of balance, finding that balance, that is also subjective. The key here in what Bill 120 provides will be some flexibility for some municipalities to find their own appropriate balance for that planning period, if you will.

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To answer your question on accessory apartments, I believe Bill 120 removes it as a right for every homeowner, yet the legislation does allow for municipalities to go into that area. However, there will be new guidelines to allow for that sort of thing. I agree with that approach because I felt the current legislation that was introduced would kind of topsy-turvy communities, or had the possibility of having that effect on local communities that had been planned many years ago with certain infrastructure in place. People bought homes with a certain expectation and now to change this whole sort of thing or give everybody the right to add an accessory apartment to those residences would be very problematic, and that's why I encourage this new approach.

Mr Gary Carr (Oakville South): I have a question regarding some of the concerns that have been initiated over the last little while on being able to strike this balance. I firmly believe that people on councils who are elected are able to decide in their community what the balance is. Would you like to comment on the feeling some people have, that the province should have more control and that councils right across this province really should have a lot more restrictions put on them? What is your feeling with regard to that, on how much autonomy local councils should have versus the province telling them what to do?

Mr van den Ham: If I could just back up a second, before becoming a regional councillor, I was a local councillor with the township of Cumberland for five years, for the rural area. Being a person who's very much in the field and in the coffee shops and in the sale barns and going to the fair, I feel I have a good feel for that. Municipalities way back when, when they were created, were meant to be the political extension of the community. I don't think that's changed a whole lot, and if it has, then democracy is changing. I feel that local municipalities should have some sort of say as to how their communities are going to be structured and what sort of balance they would like to strike, of course in consultation with their population. I'm in favour of that approach.

Mr Carr: This bill, if you had to write it, probably wouldn't be exactly like you want, but do you think that the province has done a good job in striking that balance overall?

Mr van den Ham: The implementation: I think you provide the flexibility for municipalities to arrive at a better balance than has been allowed previously, if I could put it that way. Certainly people will go through the whole bill with a fine-tooth comb and come up with specific arguments and recommendations. As I mentioned, this is more of an overview. You can put a whole bunch of things into a policy, but it really depends how MNR is going to apply the fish habitat policies, and that's why I mentioned that was key. You may have this policy here, but the other ministries I think have to understand the same thing so that one field officer in southwestern Ontario is the same as the one in eastern Ontario so they apply or try to apply the policies evenly.

Mr Carr: How do you see it if in fact something happens and a particular ministry doesn't apply it? What are the safeguards for you to be able to tell the prov-

ince—you mentioned MNR creating a problem. How do we see us being able to handle that, because as you know, we're big and unwieldy with many, very large ministries. I think we accept the general thrust, but that doesn't mean it will actually happen when you get down to the day-to-day operations. Is there anything else we can do to ensure that is maintained?

Mr van den Ham: That's difficult and I leave that in your hands. You guys are getting the big bucks.

Mr Baird: Point of personal privilege: They get the big bucks.

Mr van den Ham: I think that will always be a matter for discussion and perhaps negotiations between the ministry and the applicants or the municipality. As long as the positive tone prevails that you're trying to set: "Let's work together. How can we resolve this? A person can think of a thousand and one ways why we shouldn't do something, but how can we overcome the problems you're throwing out here? How can we work with you to override that and accomplish the end result here?"

Mr John Gerretsen (Kingston and The Islands): I think we're all in favour of more local autonomy. The real question as it relates to this act is what happens to the appeal rights people have, the ultimate appeal, in a situation where the general public and applicant and the municipality can't agree, through one of its committees or itself, who should be the ultimate arbiter in the situation. That's what this is more about, rather than just autonomy.

You talked about land owners' rights. I'm a great believer in land owners' rights. I'm just wondering, now that people have a right to have a second unit in their residential premises, how do we deal with the situation where you've got two identical houses in a subdivision, let's say, and one of them constructed a basement apartment some four or five years ago which is now legal? From outside appearances, those houses look identical. After this bill is passed, what do we say to the other property owner, who's mother-in-law or whatever wants to live with them now? He says, "I want to build an apartment." We say, "No, you can't." "Well, the guy next door has." How do you think that should be dealt with?

Mr van den Ham: When I was with Cumberland, we enacted on the bill that permitted that. We went through an extensive consultation process with our public, because we wanted to be prepared. When this was became law, we wanted to do it in a way which we thought would be friendly to our community. There were all sorts of guidelines and bylaws implemented to cover that sort of thing. Ultimately, I believe that one area is going to be quite different. You have, let's say, Rockcliffe Park here in Ottawa-Carleton where you may not want any of that.

Mr Gerretsen: Why? That's where the big houses are. That's where you've got the extra room.

Mr van den Ham: I agree. Maybe I picked the wrong example. Those municipalities should go into a public consultation process with a number of meetings and hear the comments from the people, whether you want to only allow one accessory apartment for every five houses. That's the democratic process. I believe where you meet with the people who live there, who are actually interested in accessory—

Mr Gerretsen: To the guy who wants the unit, all he wants is a unit. You can have all the process you want, but if he doesn't get the right to that unit he now has, he's going to feel aggrieved.

Mr Pat Hoy (Essex-Kent): On page 3 you mention that certain areas should be bought from the owner for the common good. I think you're talking about some fragile lands etc. There are conservation authorities that are now stewards of lands that perhaps people have turned over to them and said, "We would like you to keep this for time immemorial." Now that their funding's been cut over time to come to about 70%, how do you envision this land being bought from the owner for the common good? Who's going to do that?

Mr van den Ham: If the provincial policies say there is absolutely no development or they're going to, let's say, sterilize somebody's land through designation or whatever, then I think it's up to the province. If a municipality or a region goes further than the provincial policies and says, "We are going to designate that and basically sterilize it," then I think it's up to them to compensate.

Perhaps "bought" is not the correct word, but "compensate," whether they get a rebate on taxes for that portion or—this is an idea I thought of yesterday morning about 6 in the morning—where you have large areas, a land owner has maybe several hundred acres, and all of a sudden through the process he finds that 100 acres of this are all wetland or natural environment, that it has to be protected and no one is in disagreement with those areas, then perhaps there's a tradeoff possible here, to say: "This is what's going to happen. This is a wetland. We feel it's important to the ecology of the area." We're all trying to reduce our own spending, but perhaps the tradeoff could be in the form of severance, so that he has a financial advantage in one fashion. That's off the top of my head and I'm sure there will be many people looking at that one, the legality etc, but that is just a suggestion and I think worth looking into.

0940

The Chair: Thank you very much, Mr van den Ham. We appreciate you taking the time to make a presentation before us here today.

Mr Doug Galt (Northumberland): Mr Chair, on a point of privilege: Is there any way of getting a little bit more room at these tables? It really isn't very operational the way we are.

Mr Gerretsen: We could excuse some of the government members.

The Chair: The clerk informs me that arrangements have been made to do that at noon hour, if you can persevere till then.

Mr Galt: We got rid of one. We sent him down to the end of the table.

Mr Carr: I am down here at the end of the table with the presenters.

Mr Chiarelli: We don't mind if you want to work in shifts.

Interjection: Bill, is he suggesting he doesn't want—

Mr Bill Murdoch (Grey-Owen Sound): Well, I was going to say on a point of order, it didn't seem to bother him until I came.

The Chair: I'll reset the stopwatch for the group making the presentation here.

COPELAND PARK COMMUNITY ALLIANCE

The Chair: This presentation is from the Copeland Park Community Alliance. We have 20 minutes.

Mrs Kathy Yach: Good morning. My name is Kathy Yach and I'm the president of the Copeland Park Community Alliance. Hy Carswell is one of the directors. We represent an area in the west end of Ottawa that has approximately 1,000 homes we deliver newsletters to. Hy is going to do the presentation on behalf of the association.

Mr Hy Carswell: Before I turn to specific items in the bill, I would like to speak briefly on the nature of community associations and the type of service they can perform, and therefore why their input can be useful and should be facilitated, and also to put my later comments in context.

A community association encompasses a defined neighbourhood and several hundred to 1,000 citizens. Among them are many who are unable or unwilling to become actively involved in municipal planning and development matters. Some fear public speaking. Some are not fluent in either English or French. Others lack confidence in their writing skills. The majority cannot attend council or committee meetings which are mostly held in normal working hours. Most find that land use policies and interrelationships of the National Capital Commission, the regional municipality of Ottawa-Carleton and the city a total mystery.

For the most part, therefore, the active land use work of the association devolves to a handful of volunteers, most of whom have full-time jobs and who by their nature are often involved in other public service activities. There is no staff, very little money, no spending authority for other than minor items without reference to the community, no immediate or inexpensive means of transmitting information to our members or of gathering their opinions. Historically, those few people are trying at any one time to keep abreast of one to six proposals or activities with the potential to affect the community.

Our greatest ally is time, time to find out what is proposed, to consult with the city and/or regional councillors and staff and our own councillor, to get the facts, to analyse the potential impact, to notify the community and if necessary obtain a mandate, and on occasion to raise money, to prepare a written or oral submission and to attend applicable committee or council meetings. If you take away our time, you take away our voice.

Sometimes we wonder if there are those who would welcome an end altogether to public participation. In response to Bill 20 and the related draft policy statement, the city staff views seem to give short shrift to the needs of the public. They ask: "Will the changes make our job easier? If so, let's support them." I did not hear, "Is this best for the citizens?" or, "Will this facilitate public participation?" In fact, the city deemed all Bill 20 changes to be administrative and therefore not a matter for public input, and so we come to you.

We bring another perspective, the viewpoint of those who, in the final analysis, reap the benefits or bear the brunt of land use decisions. We think we have a right to be heard and a contribution to make. We think the process should facilitate our involvement, not give lip-service to public participation while chipping away at the

means to make it a practical reality. Let me give you a couple of examples of our community's involvement.

We made a major input to the city of Ottawa official plan which was well received and on which we gained plaudits from councillors and staff. We had a major input with respect to the subdivision plan for a 140-acre site adjacent to our community and brought about changes which were recognized as beneficial to the community and an environmentally sensitive area while not adversely affecting the development itself.

More recently, a proposal for another type of development adjacent to our community was put forward to the city. Councillors initially favoured the project, relying on staff analysis which in the event proved to be superficial because their resources are thin and their expertise is lacking in that type of development. The consultant hired by the city did not visit the site.

Our association, supported by a neighbouring one, conducted a more thorough analysis. We talked to experts in Canada and the United States and we brought forward traffic and other relevant material heretofore not considered. The information we uncovered convinced our councillor that this was a good project but definitely in the wrong place. Because of our new information, this view was subsequently endorsed unanimously by the applicable city committee.

Without our input, the development would have proceeded, whereas it is now recognized that it would have been a mistake for the community, a mistake for the city and a mistake for the developer. We are not anti-development. We support the expansion of the Arnon commercial complex in our area and we supported a strip mall within our community, albeit we made recommendations to improve the safe flow of traffic.

Those are three areas in which our association made a positive contribution, recognized as such by the city. But with the time lines proposed in Bill 20, it may be doubtful if we could have been involved, and certainly not to the extent that we were. We would find that regrettable.

Turning to some specifics of Bill 20, the reduction in opportunities for public input, along with a corresponding reduction in the time available to assess a change and prepare a response or make an appeal, is the most troublesome.

For an official plan amendment, no matter what the scope, only one public meeting need be held. Its substance need only be given to the public 20 days before the meeting and only a 20-day period is allowed in which to make an appeal. Even then, if that one public meeting is missed or time and lack of information preclude a rational written submission, the appeal may be dismissed. Incidentally, in Ottawa, council does not hear oral submissions. For a plan of subdivision, even one public meeting is no longer required in order to "streamline the system."

With respect to rezoning, the appeal period is reduced and the OMB will be able to dismiss appeals if the public has not expressed its concern early in the process. We would naturally attempt to become involved as early as possible, but the bill seems to assume that the public can become aware early enough in the process to review, assess the impact and prepare a submission.

City staff supported most of the reductions in time lines, noting that they will not unduly affect the rights of potential appellants. With all due respect, in this regard they don't know what they're talking about. A reduction by one third will significantly affect our ability to act, and we respectfully maintain that we are in a better position to assess the impact on our rights and the constraints under which we operate than anyone else.

Overall, the one-time opportunities to become aware of the scope of a change, coupled with the reduced time periods in which to prepare a rational comment, are incompatible with the reality of community associations or citizens at large. We urge you, therefore, to restore the time frames and public meeting requirements that directly affect our ability to be aware of and get effectively involved in the decisions that will affect us and our community.

Our association is very concerned with the change in the criterion for exercising any authority that affects planning matters from "be consistent with" policy statements to "have regard to" policy statements. The city apparently supports the change, because it gives them "a versatile tool in interpreting provincial policy." What it gives them is total free rein.

We do not agree with the change because it gives municipal governments too much leeway, since few bounds are placed on them as long as the policy was given some passing consideration. In our view, a policy that only requires nominal reference is not really a policy; it is a form of guidance or perhaps even a suggestion. To me it's like putting a sign on Highway 401 that says, "We would like you to not exceed 100 kilometres, but as long as you look at the sign and think about it you can drive as fast as you like."

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We think the change will lead to wider and wider divergence over time from the intent of the policy. It will lead to the inconsistent application of policy from one municipality to the next, affecting citizens differently, and within a region complicating the transition to single-tier government. We believe the decisions should be consistent with provincial policies.

With respect to committee of adjustment, municipalities are offered a number of options and it is difficult to make relevant comment without knowing which one will be selected. I have some general points only.

First, members of a committee of adjustment are appointed, albeit one member could be a councillor. We are opposed to any system wherein a majority of unelected people can make a decision which cannot be appealed. Even with one councillor on committee, that councillor cannot reflect the balance normally occurring in council. In council, some lean towards development, some towards the environment, some towards social services and so on. Various viewpoints are represented. One councillor cannot bring to committee of adjustment that balance, and therefore appeal to council, even if a councillor is on committee, should be the rule. Four of five councillors on the city's planning, economic development and housing committee support that view.

The option that an appointed committee can make a decision which can only be appealed to another appointed

body, the OMB, is scary. There is no elected person in the process, and furthermore, appeals to the board can be prohibitively expensive. We do not believe it should be an option for council to abdicate its responsibilities for both the decision-making and appeal processes.

With regard to environment and heritage, the bill will undermine the ability of citizens and the municipal government to protect the natural environment or heritage and cultural features. Municipalities should continue to be empowered to prohibit all uses or classes of buildings on land within significant natural and cultural heritage features. Removal of this protective device will inevitably lead to development creep and the eventual loss of the natural or heritage feature. This aspect of the act is puzzling, given the stated intention to authorize greater decision-making powers for municipal governments. We believe this part of the act should remain as is.

In summary, we are responsible citizens anxious to remain involved in our municipal and community affairs. We believe we have made and could continue to make a positive contribution. We simply ask that we not be denied the practical means to do so. Thank you.

Mr Ernie Hardeman (Oxford): Thank you for your presentation. I was impressed, when you started your presentation, that you list a number of projects your group had been involved with and that through your efforts changes were made and a better development occurred. Is it reasonable, then, to assume that you do feel you have greater control and a greater ability to have input if the decisions are at the local level, where you can get to the people, as opposed to having decisions made at Queen's Park?

Mr Carswell: In some cases the official plan was local, although it required regional approval and subsequently the OMB or the minister. All of the official plan aspects have not yet been approved. With respect to the 140-acre land site, mostly our improvements were done by negotiation but subsequently we appealed to the OMB. I think we would not have achieved as much had we not had the OMB come in and be a catalyst for harder negotiation.

Mr Hardeman: You spoke to the committee of adjustment and you feel that an appeal process has to include an elected group of people, somebody apart who at some point has to be responsible. Presently that's not the case, of course. The committee of adjustment appeals would go to the OMB.

There have been concerns expressed by other presenters with the elected people not being able to make a decision based on the wishes of the electorate, that they would be pressured by individuals and that it would not be a true appeal. What would be your position on that?

Mr Carswell: Obviously I'm not as familiar as I should be with what you just said. Our community has only, I think, had one issue related to a committee of adjustment and our views prevailed with the committee of adjustment. I guess I'm reading something into this. I didn't know the present situation. But as a general principle, whether they make the right decisions or not, to me, I should have access at some point in the process to an elected body.

Mr Chiarelli: First of all, I want to thank you very much for taking the time to review the legislation and

give it your very thoughtful attention. I think you've made some very good points. Of course, your association is in Ottawa West and I'm familiar with the three examples you gave of your community involvement and I think it was very responsible and very effective, how the community worked.

The process we have here involves getting public input in this legislation and then the committee will be doing clause-by-clause analysis, where they will be analysing each section and where there will be an opportunity for moving amendments at that time by committee members and by the government side as well.

I think it would be very helpful and useful to all of us on this committee if you could revisit the legislation, look at the time lines you've raised some concern about and suggest to us what you feel would be appropriate time lines, given your practical experience on the ground, working with this type of issue, the type of issue that most community associations across the province deal with on a regular basis. We would then have some basis and some advice on your part as to what reasonable amendments could be moved when we get to clause-by-clause analysis so that would could accommodate your concerns in terms of time lines. So I would encourage you to revisit the legislation, file your suggestions with the clerk or with members or with my office if you want me to circulate it, and we'd be more than happy to do so.

Do you have any sense now of specifically what you feel would be reasonable time lines, or would you like some time to reconsider and submit later?

Mr Carswell: I would prefer to think about it and I'd like to discuss with the remainder of the executive as well the opportunity to comment.

Mr Chiarelli: We would like to have the opportunity to move those amendments on your behalf.

Mr Carswell: Speaking of time lines, what time line do I have to get this back here?

Mr Chiarelli: As soon as possible. I'd say within a week. I'm not sure when the committee is going to be looking at clause-by-clause.

The Chair: Clause-by-clause will start next Wednesday.

Mr Chiarelli: Next Wednesday, so it would have to be by Monday, if possible, so that we can circulate and do the technical work necessary to prepare amendments to submit to the committee.

Mr Christopherson: Thank you very much for your very thoughtful, reflective presentation. I was particularly struck with your comment, and I wrote it down for future reference, "If you take away our time, you take away our voice." I thought that was very effective. I would ask you, given that this new government has decided to take away some of that valuable time that you now have, why do you think they're doing it? Why do you think the government is shortening the time and damaging your ability to be effective citizens and players in the development of planning your own local community?

Mr Carswell: I think it's probably inappropriate for me to put myself in the government's mind. I have been in the position in my life, however, where there has been tremendous pressure to look at bureaucratic processes and see the extent to which they can be made more efficient.

I would assume the government is doing that to try and bring about as many efficiencies in the process as possible.

In our view, in these cases I mentioned they have gone beyond what is suitable for us, but there are balances. I'm sure there are other pressures to do it another way and I don't envy you your task of trying to find the balance, but from our point of view, the streamlining which is often used in the city and regional dogmas is streamlining us out of the system to an extent.

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Mr Christopherson: We would agree. The reason that we have those kinds of time frames in there, that we put them in when we were government, was to facilitate and encourage groups like yours at the community level to play a role. We have a real concern that what this is going to do is exactly what you're concerned about at your level of involvement, and that is push you out of the play, and then it leaves those who have the influence and have the money and the ability to hire lobbyists and to lobby council members. Without a countervailing pressure from within the community, we're very much concerned that the planning process is going to become an exclusive arena for players who have the bucks to get in or the means to get in and the average citizen is just going to be set aside. I haven't heard anything from you that suggests that you're not somewhat sympathetic with that point of view.

Mr Carswell: It's close.

The Chair: Thank you both for taking the time to visit us today and make a presentation. We appreciate it.

FEDERATION OF OTTAWA-CARLETON CITIZENS' ASSOCIATIONS

The Chair: Our next presentation will be from the Federation of Ottawa-Carleton Citizens' Associations.

Dr Paul Laughton: My job is to be the philosophical sort. You have, by the way, just heard from one of our members. As stated in our brief, we're a federation of community organizations in the Ottawa area. Most are in fact community associations, but we also include the major tenants' association in the area and we have as members or close associates a number of environmental groups, so we go right across the spectrum.

For example, I represent an area of about 1,100 single homes with a residential assessment of the order of \$200 million, so the playing field whose rules you are considering in Bill 20 is not a penny ante game. My task this morning is to remind you that there are three players in this complex game, not two. In this corner of the triangle, you have the developers, some of whom are good corporate citizens, some not so good. They can write off the cost of their troupes of planners and lawyers as business expenses. In that corner are the municipal planning staffs, who are financed in large part by our taxes. Finally, there is our corner, a fragile web of volunteer groups, poorly financed, fluctuating yearly between weak, strong and dead.

Mr Gerretsen: What's it this year?

Dr Laughton: Well, in the last couple of years we've lost three major associations with more than 3,000 homes

each, that have just quietly died. We're glad to see that one of them is coming back this year. But it's an up-and-down movement. I've been involved with my association since it was formed over 40 years ago, off and on; partly off because it died. In fact, it has died more than once. The health of the organizations depends on the volunteers of that year.

Like you, we have heard the complaints of red tape by developers and, like you, we have tried to do something about it in Ottawa. The city of Ottawa has recently adopted a method called the Better Way for rewarding responsible developers with fast-track treatment. The price for developers is that they involve the community in their plans even before they officially apply for permits. The price for us is that we have to get our act together and respond quickly to initiatives or we lose our voice. We have a fighting chance of doing this because we have been involved in the plans from the start. This is the way we'd rather see it go.

The Better Way was hammered out by a three-cornered advisory committee whose elected chair was our past president, a very able man who had been general manager of the National Capital Commission. We were able to reach this compromise because under the 1983 Planning Act, despite our overall fragility, we had some rights as bargaining chips. So my plea to you this morning is, please be very careful in how you tilt this playing field, how you craft Bill 20, so that you do not leave your homeowners and tenants defenceless and unable and too disheartened to protect the interests of our people.

With this philosophical plea, I turn to our president, Mrs Kempster, who is an economic statistics consultant—we're not all wild-eyed radicals—for some of the more detailed comments.

Mrs Amy Kempster: First of all, I'd like to talk to you about the elimination of prematurity as a justification for dismissing appeals. We feel this is not a very good idea. We as taxpayers want to ensure that development does not go ahead which will cost us a hell of a lot of money to pay for the services. Looking at where the bill talks about what it's doing in the development charges area and the fact that we don't know where that's going, we feel that any defence we can have against proposals going forward which are not economic to finance is not a good idea. So we would like to keep in the legislation the prematurity clauses so that appeals can be dismissed if they are premature. We very strongly support that.

By the way, the staff reports of both the city of Ottawa and the region were also in support of keeping those prematurity clauses.

We also feel the bill will lead to uneven treatment across the province of environmentally and culturally sensitive properties. The bill sort of says that—there's a little "all...or" there and it takes out the "all...or." That is a very significant change because it changes the power of municipalities to legislate that no types of structures be built on such land. We feel that's taking power away from municipalities, not giving it to them, which this bill is supposed to be about. So we feel that little deletion of "all...or" should come right out of the bill.

A point I didn't make earlier is the whole case that in the previous bill there was some mention of what should

be in official plans. We'd like to see either something prescribed right in the legislation or a phrase that what is in official plans can be prescribed. We would prefer that what should be in official plans be actually in the legislation. This legislation would leave nothing defined as to what should be in an official plan; really very vague.

As you might expect, we are not in agreement with the "shall have regard to." I won't speak too long on that. Basically, we feel that it will not lead to consistent treatment across the province.

The reduction in response times: I believe that our member of our organization who spoke earlier has spoken very well on this point and I won't spend much time on it, just to say that this is a very sensitive point for all community associations and we're in full agreement that the response times, the change from 30 to 20, is something we will find it very difficult to live with. So we would suggest that you leave it at 30 in most cases.

We notice that in some cases information about such matters as appeal deadlines is no longer required in notices of decisions and rights to notices of appeal are denied to those who only speak or make submissions at public meetings. We feel that these are minor matters in a way, but in another way they take away from the rights of those people whose language is neither English nor French and who have less understanding of how municipal government works or who have no lawyer at their service. Organizations such as ours, as long as we continue to have people who are fairly knowledgeable from experience, are not so much affected, but we feel it's our duty to say something for those people for whom it's a new experience or who are less experienced in the whole process.

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In our last submission on Bill 163, we asked for intervenor funding. I know we're not going to get that, but the cost of an appeal can financially cripple many community organizations. Therefore, we are rather frightened by the possible fact that not just a fee but the whole cost of an appeal from the committee of adjustment will be charged to the municipality, and what we don't know is—apparently this bill doesn't give the municipality authority to charge community associations, but we're worried that maybe Bill 26 did. Obviously, this is to discourage appeals from the committee of adjustment to the OMB, but it puts a chill into us until we know whether it might be charged back to the person who actually wants to make the appeal.

As well as the decrease in response times which affect us directly, the decrease in response times for municipalities will likely be met by minimizing their often inadequate efforts to encourage public participation, again to our disadvantage. So we feel that you should look a little bit more carefully at the time you've given to municipalities. Some of them I think, particularly with official plan stuff, are just too short. I think it depends on the complexity. If it's a simple matter, no, they're not too short, but if it's a complex, big development, they're going to need more time to consult and negotiate, whatever. I would say you should look at those times and give them more flexibility. Dr Laughton has already mentioned that we have a system in Ottawa where we hope—it seems to be working so far—that communities get involved early.

That reduces time for everybody. It makes the whole process faster, because if communities know early and the developer talks with them early, he knows what their concerns are, he can maybe adapt his plans to meet the problems that the community sees, and everybody wins. That's what we want to see.

We've given page and section references in appendix 1. We have some additional concerns in appendix 2.

One of things that we'd like to mention is that we'd like to see that instead of taking away the right of referral to the upper tier, what you should do is view the upper tier as a mechanism to mediate disputes. In other words, if there's a referral from an official plan, it would go to the upper tier and the upper tier would be given explicit direction to mediate disputes at that point and try and avoid going to the OMB.

The upper tier played that role with the Ottawa official plan to a certain extent, and then what happened after that? The remaining referrals: The city of Ottawa hired a mediator along with the OMB, and what happened? Sixty-four referrals went down to nothing. We ended up with a half-hour OMB hearing in January and there's supposed to be another—I'm sure it'll be a small one and probably everything will be fixed before then—in June.

I would say that mediation is the way to go to reduce expenses, and why don't you reflect that idea in the legislation?

Dr Laughton: I think we've run out of time.

Mrs Kempster: Okay. You can read the rest.

Mr Gerretsen: I'd like to underscore something I've been trying to tell the committee for the last couple of weeks, first of all the notion that at least three parties are involved in any kind of development process: the municipality, the developer and the general public. Unfortunately, the general public has been left out of this process more than before, with public meetings for subdivisions no longer necessary.

I totally agree with you. There seems to be this notion around that if you get the general public involved, it will only delay for everybody. I can tell you, as a former municipal politician, the exact opposite is true if it's handled in the correct way. I like your notion of mediation. Two or three other people have mentioned that before. After all, we can all learn from one another, and the developments you get in the end are usually a lot better if you get all the various viewpoints reflected in that development. It doesn't have to slow down the process. What really slows down the process quite often are administrative matters or time lags: the length of time a planning staff deals with something, council deals with it, the various ministries deal with it.

I really like the notion you're on. I urge you to keep up the work and keep telling the government that getting the general public involved in this process is a plus and doesn't detract from the whole planning process, because, after all, it's good communities we want to see at the end of the whole process.

I don't have a question. I just wanted to make that comment, because I think you make it extremely well in your brief. It's obviously worked well in your case.

Dr Laughton: The city in fact formally involved us as an organization in the mediation process, and many of the mediated agreements were our wording.

Mr Len Wood (Cochrane North): I was listening quite attentively to your concern that developers and municipalities might be all right to deal with Bill 20, but it's going to close the door on any other voluntary groups or individuals that might want to make their point, and the time frame is going to be shortened so much that they won't be able to get a voice. We'd hate to see it get to the point, as we've seen an incident in Ottawa, where people complain or protest and the Prime Minister grabs hold of them and chokes them.

Your fear seems to be that everybody else except for developers and municipal staff, municipalities, are going to be shut out of the process. I just wanted to know if you had a comment on that.

Mrs Kempster: The time lines certainly would tend to shut out the community associations, as was emphasized by the earlier brief. I didn't go into that because I felt they'd done a very good presentation that indicates the problems of the time lines. We have monthly meetings. We try and have major papers like this approved at our monthly meetings. The draft of this did go to our monthly meeting. We have a problem if it's less than 30 days.

Mr Carr: I want to pick up on what John was saying. You mentioned that there are the developers, the municipalities and then some of the public. I firmly believe that the municipalities, through their elected representatives, are the closest to the people, that there doesn't need to be these three but they can be two. I may be living in an ideal world, but I firmly believe that people who believe in the ideas you do can and should get involved in municipal politics. I ran because I got so upset and angry with what was happening at the provincial level. You have to be very careful because you might win, like I did, which may or may not be a good thing.

When you say there are these three groups, why can't we have some folks who believe in the ideas you do run—most councils are part-time—and get elected to get in there and make the changes? Why do we need to have these three groups of developers and municipalities and then the public? Why can't the public be closer to municipalities through their elected representatives? Why isn't that system working the way it should?

Dr Laughton: Why should you want to deprive the councillors of the advice of a huge body of people, in our case many of them very experienced professionals? I'm not a planner or a lawyer, but I've had to examine expert witnesses at OMB hearings on behalf of FCA, because we couldn't afford a lawyer. We've got all this expertise there. We meet with our councillors. In fact, many of the councillors in Ottawa are now holding regular area meetings with community associations.

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Mr Carr: That's what I mean; that's what I'm getting at. They can and should be doing that. You're doing that. Why doesn't it work better, that we have your groups meeting with some of the councillors like that? If it's working, how can you say you don't have the input when you have these special meetings, groups meeting with councillors?

Mrs Kempster: We do have input, and you're right. Some former FCA members are currently members of either regional council or of city council. But we feel that sometimes councillors tend to listen to staff—

Mr Carr: So do provincial politicians.

Mr Gerretsen: That's the problem.

Mrs Kempster: We know that some councillors, once they get in there, take whatever staff says as gospel. We feel that it's very necessary that we speak up. Many of the councillors are glad we do. I would say often a fair majority is glad we do, because they get one point of view from staff and it's nice to have a countering point of view from the community, publicly given at a committee meeting. Many of them are in sympathy with our aims and they reflect what we see, but there are differing sections in the city, and some sections may want some things more than others.

We as a federation try to reflect the differing concerns of our different members, because we have members from quite a few areas of the city. We speak with a voice for more than one area, so the city tends to listen to us, as a federation, as reflecting a broader opinion than just one neighbourhood.

The Chair: Thank you both for the presentation. We appreciate your comments.

WETLANDS PRESERVATION GROUP OF WEST CARLETON

TRAILS OF DUNROBIN COMMUNITY ASSOCIATION

CONSTANCE AND BUCKHAM'S BAY COMMUNITY ASSOCIATION

The Chair: Our next presentation, after the false alarm last time, is the Wetlands Preservation Group. Good morning.

Dr Meg Sears: Thank you very much. I'm speaking this morning on behalf of three citizens' organizations, two community associations and the Wetlands Preservation Group within West Carleton. I've had involvements with all three in land use planning matters. I'll introduce myself to begin with. I've got a technical background, so how I landed in land use planning I'm still wondering.

Basically, I started becoming concerned about land use planning from an environmental perspective because I want to have a sustainable landscape. We all drink water, we all breathe air, and if we don't have an Ontario with all the right natural features coming together, we're going to end up in a sorry state financially and ecologically, from a health point of view, in many ways. I've been involved as a volunteer. On a provincial level, I was involved with the Sewell commission, made submissions for Bill 163, for the comprehensive policy statements, and I will prepare and submit a submission regarding the proposed policy statement as well.

I'm very concerned about groundwater. I drink water out of the ground. I live in a rural area where almost everybody is dependent upon groundwater, and I'm saying to you today that this is a really expensive sleeper. The patterns of rural development are polluting our groundwater now, and if we don't change things substantially, we are going to be up against incredible human health costs and incredible financial costs to put pipes zillions of miles, to disperse developments, or install communal systems—something. Groundwater is a very expensive, sleeping issue right now, and I see in Bill 20 many changes which will put groundwater at risk.

In summary, I find the title of the act rather misleading. I find that it is an act which will serve to promote development, but I don't see that it's going to serve to protect the environment.

The Wetlands Preservation Group, Constance and Buckham's Bay Community Association and Trails of Dunrobin Community Association all ask that Bill 20 be substantially amended according to our recommendations and that the provincial policy statement be dropped for the present time.

The policy statement currently in place has been in place for less than a year. It's basically untried. There was a huge rush of development applications before it was put in place. It's a sound statement which was put together with incredible, exhaustive consultation over four years. I think the efforts to fix the implementation guidelines should continue because the implementation guidelines are so huge, but the policy statement should be given a chance to be tried and reviewed after five years. I realize you're not talking about the policy statements today, but they're so intimately connected, I had to make that comment.

First of all, I'd like to talk about the role of the province. Mr Hardeman was talking about making decisions at Queen's Park: "Queen's Park is too far away. We don't want decisions made at Queen's Park." That's the sort of thing you hear. Queen's Park should not be deciding whether you put the store on this corner or this corner. It shouldn't be deciding the details, and it doesn't decide the details.

However, unless you have clear direction from Queen's Park about the type of planning you want to have in Ontario, a vision of the structure for planning, if that isn't very clear from Queen's Park, the system doesn't work. A hundred-odd years ago, with the British North America Act, the provinces were given this responsibility to direct development in the provinces, and that responsibility, I see in Bill 20, the province isn't going far enough to do. With regard to the policy statements, the province should enunciate very clearly the provincial interests, and I think that's well done presently.

I'll just give you one quick example of the changes we're already anticipating, this new regime. In West Carleton, we're blessed—or cursed, depending upon your point of view—with a large number of provincially significant wetlands and also some locally significant wetlands. A large number of people belong to the Association of Rural Property Owners and so on, and they packed a council meeting last week. The council said: "The province no longer says we should look at this, so we're not going to consider locally significant wetlands at all when we're making decisions. We're going to sweep them under the carpet, ignore them." A couple of people in the room were saying, "These are locally significant," and they said, "Yes, but the policy statement doesn't say they encourage us to protect them, so we'll ignore them."

You've got to look at the present policy statement. It says "encourage to protect." That's pretty discretionary. Nevertheless, that was enough to make the council say, "We're going to look at them when we have a development application." Without that, they're going to be

ignored. That means the groundwater recharge, the filtering, the flood protection, all those things, which are going to really affect other people who don't own the wetlands and will cost money to everybody, are being ignored because that direction is not there.

In order to have clear direction, we strongly suggest that we should stick with "be consistent with." You only need flexibility in one place in the system. You can either have this really ambiguous "have regard for"—because it is ambiguous. Some councils say: "It means that we dust it twice a week. It stays on the shelf, but we'll look at it." But if you take it to the OMB—and as a volunteer citizen, I've got a great deal of respect for the Ontario Municipal Board, but I really have better things to do with my time; I don't want to have to go there—the Ontario Municipal Board gives considerable weight to provincial policy, and without this clarity of "be consistent with," then you end up with a huge discrepancy in application of policies.

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"Be consistent with" I think is a really good way to go. If you want flexibility, put it in the policies, and there presently is flexibility in the policies. Where the province at the time thought there was something really important, it said "shall" or "must." If it was discretionary, it said "foster," "encourage." Those are flexible words. So put the flexibility in the policies, but make it so that everybody's singing from the same hymn-book.

We're also very concerned about the notion of public body. I realize that there are a lot of initiatives to reduce the provincial role in commenting and so on. This is something which right now, to my perception at any rate, is in a great deal of flux. We're trying to figure out how this is going to work. It's obvious even in the legislation that you really haven't figured out how it's going to work in the end, because you're saying, "Well, the Ministry of Municipal Affairs and Housing is going to be sort of a clearinghouse for all Ontario Municipal Board appeals and so on, unless that doesn't really work and we're going to ask somebody else to do it." There's that clause in the legislation which says that he or she may delegate the responsibility to somebody else.

I think the whole notion of changing the definition of "public body" is very premature. Figure out how it's going to work, but if you outlaw our present system, all you're going to do is really mess things up. Don't tie the hands of the people who are trying to make changes.

We're also concerned about the notion of having somebody looking over the shoulder of lower governments in terms of approval of official plans. This is something which I wasn't going to get into so much, but the presidents of various community associations were saying, "No, you've got to say this."

It is a fact of life that there are some people who get into municipal politics or provincial politics because they don't like the way it's working, but then there are an awful lot of people there who are in the real estate industry, who are in the development industry, and they do have a lot of ties and pulls. So having a second look by somebody at arm's length from—I come from a small, rural place. Everybody knows one another, and it's difficult for the politicians to say no to the guy they used

to take the hay off the field with and so on. Having an arm's-length second look is very, very important, and if the province doesn't do it, if the upper tier doesn't do it, the only people left are the citizens' groups, and this is too much to put on the shoulders of volunteer groups.

The second part of the planning regime, to my mind, is the official plan. Now, if the province wants to step back from day-to-day decision-making, it can only do that once there are really good official plans in place. Therefore, within the Planning Act and regulations, you really do have to have a definition of even what an official plan is and you must say the kinds of things that have to be in an official plan. Otherwise, official plans are going to be degraded over time into something that's a lot like a zoning bylaw but you can't take it to court.

Another concern regarding official plans is time frames. We've heard a lot about that. I'll add one more point to it. Presently there is a 180-day total start to finish time frame, and within that you can chop and divide as you please. Twenty days is much too short for citizens' groups, 30 days is barely workable, but the start to finish is really the important one for the developer who wants to put a shovel into the ground, and 180 days was put in place, I believe, because in rural areas, where you want to protect groundwater or other natural resources, you have to be able to groundproof. If somebody puts their application in in November, around here, anyway, you can't groundproof, and it'll be after the approvals are given that you realize, "No, no, this is not going to be workable."

There's nothing saying that if it's a small matter in the middle of the city where you don't have to groundproof and things like that, an efficient council or whatever can do it more quickly, but if you put a 90-day time frame in the act, then that pushes the councils, in order to avoid an OMB hearing—because they're no more anxious to go to the OMB than the citizens—to make ill-informed decisions. This is to everybody's detriment, and it will push people to the OMB.

One thing that's in the bill that we think is a great idea is for counties to have official plans.

Prematurity we've talked about, or other people have talked about.

The rezoning before official plan provisions are in place: This is putting the cart before the horse. If you haven't made the considerations that are necessary, I don't think it's appropriate for somebody to be giving a rezoning, because they're not doing it in good conscience.

We support direct appeal of official plans and amendments, and we support the proposed power of the OMB to examine other OP sections for review and action. We think that this is a recognition of a power that they actually already have.

To do with citizens' involvement, once again time lines. The public meetings and notice should be maintained for subdivisions and severances. If you don't have a public meeting for a plan of subdivision, then, as I've described in the brief, you're going to do everybody a great disservice. And this is where having the citizens involved will make planning work. Cutting the citizens out is going to give you bad development and a lot of delay.

Minor variances should ultimately go to the OMB.

It should not be necessary to submit a written response before a planning decision is made. If you make an oral submission, that should be sufficient.

Finally, we don't think that there should be a fee for Ontario Municipal Board appeals. I've been before the Ontario Municipal Board, I've helped citizens' groups prepare for it, and not once has it involved me personally. I think it's abhorrent that citizens' groups should be charged for upholding the public interest.

I'm sorry to rush through like that. There are a lot of proposals there, but I hope that you will consider them.

Mr Christopherson: I don't know that we'll have time for questions, but maybe a comment, Dr Sears. I think you've covered a lot of ground in a very short period of time and I appreciate it. We obviously in our party share your concerns. That's why we have the planning legislation that we now have. Unfortunately, it would seem that this government is intent on running roughshod over a lot of the protections.

Mr Baird: Oh. That hurts.

Mr Christopherson: Down, down, down.

Mr Murdoch: Well, if you're going to start talking like that, you're going to get some response.

1040

Mr Christopherson: They plan to run roughshod over the rights and protections that are in there for citizens and communities, and I would suggest very strongly to you that what we better start doing is taking a look at what are going to be the indicators we can point to down the road that prove the arguments that you're making and that we make in terms of the damage this is all going to do, because we're going to have to find a way to raise public awareness down the road. I don't imagine they're going to back off too much of what they're going forward with. They're going to take care of their pals in the development industry and elsewhere, and all of us who care about planning and about citizen involvement are going to have to make sure that we can show the broader public that indeed the concerns we've raised now have actually become a reality so that these things can stay on the public agenda.

The problem with a lot of these issues is they're seen as matters that don't really involve the general public. I think you've articulated the fact that these very issues are key to decent planning, good communities and an overall balanced society, and it's just a crying shame that they aren't giving the current legislation an opportunity to work.

Mrs Barbara Fisher (Bruce): I'm a little bit perplexed. Do you believe in local decision-making or do you believe in the province enforcing the guideline? In your presentation you were sort of two ways. Looking over your shoulder was okay, but local decision-making was okay. I didn't quite understand which one.

Dr Sears: Well, it shouldn't be one or the other. Obviously, people are going to make decisions at the local level, but they must make them within a clear framework so that we have the same sorts of decisions made across the province. Otherwise, you end up with one municipality having fire sale environmental protection, for instance. They pollute their groundwater, but

they do get a lot of short-term development. Without clear provincial guidance, then we lose out.

Mr Gerretsen: I'll just take 30 seconds. I totally agree with you that when we look at the process, which is what the act is all about, we should be looking at the provincial statements, its policy statements, as well. One without the other is kind of an empty process. Jean-Marc?

Mr Jean-Marc Lalonde (Prescott and Russell): I know that you had some concern. Why are you saying that Bill 20 would put the groundwater at risk?

Dr Sears: Because you can't groundproof. The time frame's too short. The "be consistent with," along with strong policies protecting groundwater, will help.

Mr Lalonde: But in the process that we have that is in place at the present time, those surveys or studies have to be done prior to going to approvals.

Dr Sears: Yes. Actually, the hydrogeological studies which are currently done for plans of subdivision in the rural areas I feel are woefully inadequate.

The Chair: Thank you, Dr Sears. We appreciate your taking the time to make a presentation before us today.

Dr Sears: I really hope that you're wrong, that I haven't just wasted my breath today, that they'll seriously consider my—

Mr Christopherson: I hope I'm wrong too, but I wouldn't bet on it.

Mr Gerretsen: We hope so too. Meg, keep putting the pressure on.

OTTAWA-CARLETON BOARD OF TRADE

The Chair: Our next presentation is from the Ottawa-Carleton Board of Trade. Good morning.

Mr Graham Bird: Good morning, Mr Chairman, how are you?

The Chair: I'm fine, thank you. We have 20 minutes for you to use as you see fit, divided between the presentation and question and answer time.

Mr Murdoch: John, when are you going to announce your leadership? You would bring a new perspective to the Liberal Party.

Mr Gerretsen: Will the Chair please bring the member to order. He's taking valuable time away from the presenter, who has some very important things to say. I hope it wasn't taken from his time.

Mr Bird: No, that's fine. I'm going to attempt to be brief. It's sort of a tradition of the board to act that way. May I extend a welcome to all of you to the Ottawa-Carleton region from the board of trade and hope that you'll come and visit us often. It's always interesting to see fellows from the greater part of this province come to the east end to see how it works. I trust our friends locally, John Baird and Bob, have introduced you to some of the good points around our great community. Hopefully we'll organize the rain next time and have a better weather approach for you.

I'll start by saying that our organization is the largest business organization in the Ottawa Valley. It represents about 700-plus businesses and probably 1,500 to 1,800 individuals, so it's a fairly sizeable organization for this neck of the woods and, as you can imagine, represents anybody from small business right through to the large and incredibly large high-tech operations that exist in this valley.

I think it's important to note before we get started that one of the cornerstones of the board is to ensure that our community provides the best quality of life possible, but in doing so, we look for the most cost-effective way to do so.

As a backdrop to this, this community is very much turning to and relying on the high-tech and communications fields and the burgeoning biosciences field. It's amazing. I think we've got 600 or 700 firms in that arena and new ones popping up daily that frankly are happening alongside the great Canadian success stories—Newbridge, Corel, Northern Tel and so on.

I think this community, better than any in our history, has brought the point home to bear that time is of the essence and if they're not to the market fast, they miss the market and we miss the jobs and we miss the future. Yet to a person, they're very anxious that this valley retain the quality of life. So in that sort of mix, I guess they're looking for means and ways for us to preserve an appropriate environment, to make sure that this community is strong and clean and neat, and yet at the same time, if we can find an answer in a couple of seconds, why not do it rather than taking six or seven months in process. I think that's the central point, that we believe it important that all governments do everything to ensure that the process is not the product.

It's our feeling that in order to continue to provide jobs and economic growth through this area of the province, this region, which is the fourth largest in the country, with the largest number of high-tech firms in its midst, must have the tools and take the responsibility to plan and develop in such a way as to compete, not with itself or its immediate neighbours but with the Carolinas and the other high-tech centres of the world. We believe that, as with tax policy, development charge policy, transportation policy, our planning policies must make sense. If we are to be competitive, they must be product driven, not process driven. Frankly, for those of us like myself who work in this business, quicker to the product will keep us sane, which is something as individuals we're looking forward to.

On that, maybe I could take a second to make the point that I personally have been involved in the issues of planning for 15 or 18 years. I was a partner in a local engineering and planning firm. I went on to become the chair of the Ottawa planning committee. I have spent about 10 years with one of the largest development firms here and have been involved in all aspects of zoning, planning, environmental assessment, hysterical or historical analysis, federal land use, federal environmental work during those 10 years. So I think I come at this subject with some amount of personal knowledge and, frankly, commitment.

Something that I've watched over those 15 years is the amazing number of professionals in the industry who are, at the end of the day, residents of this community, very anxious that the products they put on the market and are involved in developing are consistent with the quality of life that we all enjoy and something we can leave our children with some pride at the end of the day. I've never found, by large part, people anxious to produce blights for the horizon or to make a mess of the environment.

What I do find is a tremendous number of them driven insane by the process.

I guess some of us would suggest that in this region process is our product. Between the municipal level, the regional level, the provincial level and the federal level and the quasi-in-betweens, we've got enough process to keep us up late, if you can imagine setting out to deal on a project here in this region where you've got those levels of government or those systems to deal with.

1050

We came to the point over the last couple of years and are very pleased to see that you're out rethinking and retooling and rejigging Bill 163. We noticed that the New Democrats' Bill 163, on which we were all attempting to partake in the consultative process or the dictate which effectively implements the Sewell commission's report, is not in everybody's interest except for those who like eternal process.

I recall one conversation with one of our region's best regional solicitors who said to me kind of jokingly one day, "Boy, when you start an application now, it'll be two or three terms of government before you come out the other end of it." And I said to him, "No, because quite frankly nobody's going to put the application in the first place." No one can afford the time, the patience or anything else to deal with that kind of process any more and there's no financial company that I've run into that will ever back up or even think you're reasonable to stand in front of their board and explain to them, "If we start today, ladies and gentlemen, in 2005 we may, all things being considered, come out the other end with a solution that will house one of your new high-tech firms." And they've got to be on the market next week.

It was our opinion that Bill 163 is an interesting effort and it's completely out of control. We have no doubt that the administrators were well-intentioned, but we frankly believe this animal is a recipe for disaster. Perhaps there are two issues that stand out the most in this. One is the term "have regard to," which in the administrator's language means compliance with, and compliance with policies. We have no trouble with policies, but we have a bit of a belief that the view of both of these is from a certain window of the author of Bill 163 and not representing the community's view across this great province, or understanding the variance.

Terms are a peculiar thing in the bureaucratic world. That's what I've learned over the last 10 or 15 years. I'll give you an example. In this town, when the federal government gives you advice, you better take it or you'll be upsetting a lot of people and your project will go nowhere. So we applaud the idea that you're taking a good look at some of these terms and understand them in bureaucratese to make sure they in fact mean what we all think they mean. "Having regard for" being changed to "be consistent with" in our view is something extremely important to this whole exercise, so that in fact from community to community they can take a look at the policies and the new ones that we're going to develop—and I applaud the expansion from the list I see—and we can make use of these and make use of them in a relevant way in the communities that they are being tested.

It's again maybe a bit of a throw to my work, but I was concerned frankly how we'd achieve compliance, and

that was the thing we kept asking as this exercise went on over the last couple of years. This came out as the thing the legislators see, and then I know that the planning departments and the engineers and all the rest of them get back into the bowels of the earth when they're debating whether or not you've met one of these policies.

And to our horror, out came the guidelines on how to use the policy, and I thought, holy Christ, if you can get through that—and that's the driver's manual for this, this is something that can be amended or dealt with by the bureaucracies without your knowledge—then I don't know that you'll ever come home. So what this may well mean is that you get stuck in an argument between the planning efforts here regionally and in Toronto, forever. Given that the system insists the province is in fact an authority or an agent, then those arguments go on without any end in sight, with no stop, and I don't think that's fair or appropriate. It certainly doesn't mean logic to my way of thinking.

I guess then, ladies and gentlemen, the board would like to, in that respect, give its support today to the Bill 20 initiative in its efforts to bring some reason to this process. The provincial policies will define the position of the province of Ontario in matters of environment, agriculture, heritage, resources and so on and so forth—and believe it or not, we in the industry applaud that—so that there is a clear definition and understanding of the stance of the various authorities and governments.

However, by delegating to the local municipality the responsibility to deal with the application it seems to us that it permits the variety of communities to control their own destiny, while respecting the differences that exist across this province.

It's understood that the province remains an interested party—more language—not an agent, so that in some instance where there is a magic clash against the interpretation of future policies, we can make use of the good and wise judgement of the OMB to discern who's right and who's wrong. It seems a very simple and straightforward method that everybody in the industry is accustomed to and can understand and work towards.

If I can then, I'll just say that while we've got these in this city, we also have a pile about that high from the region and a pile about that high from the city of Ottawa and from some of the other municipalities, and then the National Capital Commission throws in another land use policy that gets in on top of it, plus we then have the environmental matters that all seem to twist and twine. I realize the intricacies or the relations between this animal and the environmental act are not on the table today, but if you'll trust me, there's an awful lot of overlapping and difficulty in attempting to get those two animals to act concurrently and come out the other end of their approval process with some sense and maybe some day in the future, you might take a look at how those things overlap.

On a couple of minor points that I was asked to raise today, we appreciate that in the bill you delegate the authority to the municipality from the province for interpretation but, again, we've been blessed with a two-municipal level system here. You can do one of two things, in our mind: You can get rid of one of the levels or suggest that the regional level make sure that they in

turn delegate down to the local municipalities. We have, as I'm sure you're aware, lots of kind of intergovernmental jealousies on who gets to do what and it would be appropriate to give that little magic nod that they should go ahead and delegate down.

I think that can easily be covered by the local municipalities making sure they're consistent with the official plan language and the policies set out there, so that there's again a check and balance, but at least one mechanism for us to deal with.

Finally, a couple of smaller points, one being the removal of the rights for minor variances decisions to the OMB. Given the size and complexity of some of our zoning bylaws here, I'd ask that you might take a look at that just to make sure that the combinations and permutations of requests to the board or who's against whom and why might in fact need the OMB as a bit of a backstop at some time.

We just ask you to take a second boo at that and go through the combinations and permutations of complaints. I don't think it's a big issue in terms of the total activity in front of the board. If I'm not mistaken, it's 2% or 3% or something of Ontario's activities.

I guess on another matter—and it's just come to my attention in the last couple of days—in the business of the apartments in homes and so on, rather than looking at some kind of a reaction clause that takes them back in time, I think there are a number of people who have been acting in accordance with those rules and have been working hard on applications. I'm not sure if it's quite fair to them to put a bullet in their operation retroactively. So you might consider some kind of a grandfather clause on that exercise for a couple of months.

Mr Baird: Grandfather, it's in there.

Mr Bird: Okay, I didn't realize that. Finally, if you'll permit me, I'd like to change my hat for one second. I'm co-chairing the initiative to get the Ottawa International Airport off the ground—the authority off the ground—and something that is of concern at that table is the wish and the look for a policy on airport zones. We've been busy talking to the ministry, frankly, each one of the burgeoning airport authorities has been in to see the ministry to see if there isn't some way where we could get a policy cooking that would help protect these airports from residential—what else would come into play?—day cares, hospitals, those kinds of uses that would obviously be in conflict with the use of the airport. We just need to look to Mississauga for how not to have something go on, I think. Given that the responsibility will fall in the laps of the local municipal types and that we don't have that kind of crown authority that the feds do in looking after airports, it might be wise counsel to reinforce the administration's work to come up some kind of an airport zone or the ability for a community to have something called an airport zone which would ring around the geography of an airport within certain geographic points.

At the moment, we've got some game going on about noise cones, and it depends on which expert you talk to as to just where that noise cone falls. All kinds of shenanigans occur with air conditioners and the types of structures and hiding behind trees and under berms, but

at the end of the day, I witness that the tire marks and the barbecues still occur. I'd like to find some method to back that development ring off a bit from the airport so these very important economic generators of our future in this province aren't damaged accordingly by silly practices.

Ladies and gentlemen, that's it from our point of view. We thank you for giving us the time this morning and wish you all the best of luck in your deliberations.

The Chair: Thank you, Mr Bird. With only a minute left—no one around this table can even recite their home address in a minute, so we'll dispense with questions.

Mr Hoy: Include yourself.

The Chair: I'll include myself in that comment. Thank you for taking the time to make a presentation before us here today. We appreciate your comments.

Mr Bird: That's good planning on my side, then.

1100

WEST END LEGAL SERVICES OF OTTAWA

The Chair: Our next group up is the West End Legal Services of Ottawa. Good morning, and welcome.

Ms Mary Garrett: Thank you. I'm sure I won't be using up the whole 20 minutes. My name is Mary Garrett. I'm with West End Legal Services. West End Legal Services is one of three community legal clinics in Ottawa that deal with poverty law. We do such cases as unemployment insurance, workers' compensation, immigration, some debtor-creditor, and landlord-tenant. In fact, 50% to 53% of our caseload is landlord-tenant, and that's why I'm going to be talking today just about the area of Bill 20 that responds to the apartments in homes. That's an area we're completely concerned about.

Before I get into the presentation, I want to state that in Ottawa we have several groups that give just information on landlord-tenant areas. Naturally, the three clinics do. A housing help gives information to landlords and tenants; rent control gives information to landlords and tenants; and the Federation of Ottawa-Carleton Tenants Associations provides information to tenants. We have also the Ottawa youth-student legal aid. I say that because I'm going to give a statistic I found out only last night, so it's not in my report: In January, that is, last month, our clinic took 117 calls from tenants, just to give answers about landlord-tenant, not files. That, you have to know, is 117 we did, not counting all the other information provided by the other groups that give information in Ottawa.

Times in Ottawa, as throughout the province, are getting extremely bad for low-income tenants. It's becoming critical. That's just a little background before I get into my presentation, and from here on I'll be reading it.

On January 25, 1995, I came before the standing committee to discuss Bill 120 as it related to apartments in houses. Just as a side note, this presentation was fairly easy to provide, because I haven't even had a chance to file the brief we made the last time, the one you're taking away from us.

At that time, I explained on behalf of West End Legal Services why it was essential that Bill 120 be passed. I explained what our office experienced over the 13 years

we had been in existence by many examples that supported the passage of Bill 120, examples that showed the need for more decent, affordable housing, examples of desperate people in need of housing, examples that showed some people would become irresponsible landlords unless forced by regulations to do otherwise. A copy of our brief to Bill 120 is attached to this at the back.

Two years later, these problems have not gone away. If anything, they have increased. Cuts to social services and family benefits have made desperate people more desperate. I have to tell two to three families each day that there's nothing I can do for them. They just can't afford the rents, and there's no place where the rent will be affordable.

I am only one of four people in our clinic who have to give such advice, and our clinic is only one of four in Ottawa that give that advice. These problems will only accelerate at a horrendous rate in the future if the government carries through with its future threats to get rid of rent controls in favour of the tenant protection act, fast-track evictions and the corrosion of social housing in this province. If Bill 20 is passed, it will eliminate a stock of affordable housing that is needed in today's economic market.

Before we proceed, we should examine who this bill affects. Who would want to put an apartment in their home? In 1994, when Jackie Holzman, mayor of Ottawa, appeared before the standing committee on Bill 120, she stated that there were no basement apartments in her neighbourhood. I do not doubt this. Who would go to the expense of living in an affluent neighbourhood and take in boarders to make an extra buck? It would be simpler to move to a less affluent neighbourhood where costs are not so high.

The truth is that one opens their home to strangers for a need. Usually, that is a financial need. This could be to help a young couple share the cost of a first home or seniors to cope with the higher expense to keep the home they raised their family in. Possibly, it could help a newly unemployed civil servant pay for mortgage payments while on UI. Few will convert their homes into apartments for the sheer joy of having strangers invade their privacy.

Who would rent an apartment in a home? Since these apartments are usually one-bedroom or bachelor apartments, they are rented by one or two people, such as a young couple starting out, seniors, singles or single parents with one child. They are people with little choice. Why would anybody want to rent a place with the landlord so close when they could rent a high-rise, a town house complex or a single-family dwelling? Usually, these are people with little money, such as people on social services or a pension, people who need affordable housing and have not been able to find it in the social housing field because the waiting lists are too long.

The combined waiting list for Ottawa-Carleton Housing and City Living—that's the city of Ottawa non-profit housing—was 8,531 in December 1995. This does not include those people on waiting lists for subsidized units in cooperative housing units or non-profit housing communities.

We have listened recently to government rhetoric regarding their concern for tenants and recent communication on government's recommended changes to the Rent Control Act regulations. The paper stated they were prepared to replace rent control with the tenant protection act. We have been informed by Gary Guzzo, an Ottawa Conservative MPP, that the dismantling of public housing will be done in a "tenant-friendly" manner. People who represent tenants are having problems believing this concern is true, particularly when the tenant protection act was announced at the same time as the government proposed the changes to regulations in rent control, regulation changes that would make it easier for landlords to increase rents and harder for tenants to get a rent decrease. We have a hard time conceiving of how the elimination of a rental unit on a home where there is a financial need could be done in a tenant-friendly manner. If the government is concerned with being tenant-friendly and protecting tenants, it should not take away the small portion of affordable housing for people at the bottom of the financial ladder.

1110

Everything we have heard from government since July, either in the media, in correspondence or at meetings, leads us to believe that this government believes the future of housing is in the private market; that if we eliminate rent controls, the private market will provide more units; that if we eliminate the rent-geared-to-income system for rent subsidies, the private market will build more units; that if we get out of housing, the private market will take over and, yes, provide more units. We do not believe this, but we must believe the government does. Then why is the government using this legislative change to stop the private market from providing some of the affordable units that will also benefit those very small landlords?

If the government is concerned with encouraging the private market to develop and provide the needed housing stock, do not use this bill to take away the income from the homeowners who need this income to make the mortgage payments and pay property taxes. Do not prevent this group of small landlords from providing this stock the government has promised us.

Thank you for giving me the opportunity to say that.

Mr Chiarelli: Mary, thank you for coming and making a presentation. I know of the work you do in the clinic because it is in my riding, and I certainly appreciate that. You may also be aware of the fact that I opposed the apartments in basements legislation when it came forward last time, and I still do. On the other hand, I also support the notion of housing intensification. One of the objections to apartments in basements is that it's basically zoning the province from Queen's Park and very significantly takes away a lot of the planning component of the local level. Certainly people in Ottawa West, by a survey I did, support that notion.

Why would not you agree to planning policies which would require intensification policies in official plans, and that it be strictly enforced by the province so it can be done where appropriate, where services are appropriate, where there's more need, particularly in areas such as Ottawa-Carleton or Metropolitan Toronto, very large

municipalities where it may be more appropriate in one area than another area? If there is an appropriate housing intensification policy without rezoning the whole province, would that not go a long way to achieving your goals?

I don't disagree with your goal of creating affordable apartment units in designated areas, but the means to do it—simply rezoning the whole province and abolishing single-family zones across the province—is really offensive to a lot of people, certainly to a lot of people in Ottawa West, because over 70% said they did not support that type of *carte blanche* initiative by the government.

Ms Garrett: It's what we have now, and as long as we have something in place that will take the need, we have to do it. If you can come up with a better way of finding affordable housing in this province, God bless you, but don't take away what we've got until you've got something else there to replace it. We can't lose housing stock for a hope that some day, God willing, there'll be a house there. Too many people are going to suffer waiting for that. Give us another bill that's going to start tomorrow, and then you've got my blessings to take this one away.

Mr Chiarelli: But do you not see that it undermines the whole municipal planning process in terms of availability of services in a designated area? For example, on street X anywhere in the city of Ottawa or the regional municipality of Ottawa-Carleton, every single home conceivably could be duplexed—not small apartments but 50-50; totally duplexed—with parking problems, there could be servicing problems, there could be recreational problems, a whole host of things. What the present law, which the NDP passed, did was totally undermine that whole local planning process, and that's why people strenuously opposed it and they say both parties—

Ms Garrett: I would rather you ask that question to the hundreds of ladies who are sitting in one room with their three children in shelters waiting to find an apartment to move into.

Mr Chiarelli: I'm not sure they're being accommodated in basement apartments.

Ms Garrett: That's not the best and I've argued with the NDP that it wasn't the solution to affordable housing, but it is some affordable housing. We have people living in it now, some people who are living in it waiting for the property standards bylaws to come into effect.

Mr Chiarelli: If we had a municipality that could sit down and designate those areas of a municipality where they feel it's appropriate and needed, do you not think that would be a reasonable approach?

Ms Garrett: Yes, but "if" hasn't happened yet and "if" isn't going to put a room over a child's head in the middle of winter in Ottawa.

Mr Chiarelli: We're looking at "ifs" now because we're considering legislation.

Ms Garrett: I'm saying right now we have the legislation. Keep it until you find something better.

Mr Christopherson: I was struck by the fact that you note there are over 8,500 people currently on the combined waiting list for affordable housing.

I stand back and look at what this government has done so far, particularly as it affects the poor and those

who are less well off in our province in terms of the 22% cut to social services support payments, at the fact that they're about to implement or force municipalities to implement major increases in user fees. That's going to have a major impact.

They have moved towards eliminating non-profit housing. I know in my community of Hamilton they cancelled thousands of units; that will not happen now. We know rent control will be under attack and this business of a tenant protection act is just another sham in terms of the government playing games with the name of their bill, and doing the opposite, quite frankly, in the legislation.

We have a sense that we're moving quickly towards a two-tier health care system, that there's going to be deterioration of education, just such an impact on the standard of living of people who are already very vulnerable.

Assuming this 8,500 number is not about to go down—if anything, it's going to go up as a result of the issues I've raised—and now there will be fewer opportunities for people to find affordable housing through yet another move in this piece of legislation to deny secondary units in houses—I also assume that even your funding in terms of you as an organization trying to help people could be under attack; certainly, we know the ability for legal aid may not be there for a lot of folks. With all of that, can I ask you, what do you think is going to happen to these people?

Ms Garrett: As much as I hate to say it, what I think is going to happen is that we're going to have two and three families moving into one-family units, or two and three families moving into two-bedroom apartments. What's going to happen, despite what the Conservative government is saying, that all of these changes will encourage the building market, is that we're going to have a lot of empty units because people can't afford them and the only way people are going to survive is by bunching up into units that are too small.

It will be unhealthy. It'll be dangerous. There will be fire hazards, health hazards. It's not going to help the economy at all. With the disappearance of rent control, which the government has promised us will happen, rents are going to go to the cost of two to three shelter components under social services. That's how high landlords are going to be able to raise rents because they can squeeze more people in.

1120

Mr Christopherson: Would you agree or not that it's fair to say that at the end of the day, the policies this government is initiating will have the opposite effect of what they claim they're trying to do, and that is, if you're right, with that many people living in homes that weren't initially built under regulation to house that many people, they are going to become a dangerous situation that will affect neighbourhoods, that will affect communities and that we'll see a deterioration of not only the quality of life within those individual family units, but in those homes and on those streets and in those communities? At the end of the day, do you think that ultimately we're going to be better off or worse off as a society because of these initiatives?

Ms Garrett: Definitely worse off.

Mr Galt: As you were expressing all the numbers of people looking for apartments, what went through my mind was the number of phone calls I get to my riding from landlords who have had their apartments or homes that they've rented out trashed by tenants, and the stories are very sad and I've received a lot of those. Obviously, we do not have a proper balance between controls, whatever, between landlords and tenants. I notice in your second paragraph you make reference to Bill 163, and if anything, it has increased the problems for people finding apartments, finding places to live. So obviously we're not going ahead in the right direction with some of the things that are out there.

Mr Gerretsen: On a point of order, Mr Chair: What Dr Galt is talking about has got to do with the Landlord and Tenant Act. It's got nothing to do with this act.

Mr Galt: Do I have the floor or does he?

The Chair: Mr Gerretsen, that's not a point of order, and I've seen similar ramblings from all three parties.

Mr Galt: Thank you very much.

Mr Baird: I object to your characterization as rambling.

The Chair: Dr Galt has the floor.

Mr Christopherson: Continue to ramble, please.

Mr Galt: Do we start the clock again?

Mr Baird: I object to your characterization that Dr Galt is rambling.

Mr Galt: Would you not agree that with the process we've had in place we've been losing housing units, and that if we get rid of this complicated process and get the housing market moving again, people will be moving from apartments into these homes and there'll be apartments left, the rates will come down and there'll be more apartments available for the people you're concerned about?

Ms Garrett: Do I agree with that under the present government policy? I think the Landlord and Tenant Act has favoured landlords. If the landlord would take the time, the effort and the care to learn the job of being a landlord, my opinion is that 90% of the ones that are having problems would not have problems.

Unfortunately, in the province of Ontario, anybody who's got a thick pocket can become a landlord, whether or not they know what they're doing, whether or not they have the smarts or whether or not they care about being honest about the job they do. So a landlord goes in, puts inferior maintenance into their dwelling, they don't care what they're doing, they treat the tenant like they're a bunch of garbage, and they get surprised there's a problem with their apartment? They don't obey the law.

One of things we have in Ottawa-Carleton, and I wasn't planning on doing this because we weren't into landlord and tenant, is that we have a problem in Ottawa-Carleton that's called landlord and tenant duty counsel. It's the only one we have of its kind in the province. We have a clinic that appears every motions day on landlord and tenant so that we can represent unrepresented tenants at that time. We see a lot of cases where tenants come in and a lot of the problem is just that the landlords do not know how to be landlords. They don't know what the law is, they don't know what they're supposed to do and

when they are finally forced to do maintenance, they do it shabbily.

Mr Galt: You're telling me that the problem with these homes and these apartments being trashed is the landlords' problem?

Ms Garrett: In some of the cases. I'm not saying that 100% of tenants are wonderful, but I'm saying that in the majority of cases that come across my desk or that come across duty counsel when I'm doing it are because a lot of the landlords don't know what they're supposed to be doing.

Mr Galt: And you hear the landlord's side?

Ms Garrett: I hear the landlord's side. I have had a few cases, maybe 5% where I've had to tell the tenants they were in the wrong and the tenants had to pay retribution to the landlord, but the majority of the cases that come across our desk are from the landlord's abuse.

The Chair: Thank you very much for taking the time to make a presentation before us. We appreciate it.

CITY OF OTTAWA

The Chair: Our next presentation will be from the city of Ottawa, Her Worship Mayor Jacquelin Holzman is presenting. Good morning.

Mrs Jacquelin Holzman: Good morning. I've invited some of our staff to be here. They're here to advise me. We have our commissioner of economic development and planning, Jim Seigny; John Moser, who is a director of planning; and Larry Paquette, section head of bylaw drafting.

First of all, I wanted to thank you for hosting a hearing here in the city which enables myself and my colleagues from Ottawa-Carleton to make a presentation on behalf of our area. I have a written brief which I've submitted to you. I also chaired a city committee that heard from the public on this bill as well. So we believe in public participation. We were very pleased to hear from the public. Many of them have presented to you already and some I see are going to be presenting later this afternoon.

I want to say at the outset that in the main the city of Ottawa supports the initiatives of Bill 20. They streamline the planning process without loss of public participation and they complement ongoing initiatives by the city of Ottawa to review our own development approval processes.

I'll speak first to the proposed amendments to the Planning Act and conclude with a few comments on the proposed amendments to other acts. I refer you to appendix 1 attached to this presentation for a complete list of the city of Ottawa's recommendations on Bill 20.

The amendments to the Planning Act: As I previously stated, the city of Ottawa supports the initiatives of Bill 20. The bill facilitates decision-making at the municipal level, the closest level to the people who are directly affected by the planning process. The city of Ottawa supports the flexibility being provided by the "shall have regard to" amendment. The "shall have regard to" wording is preferable because it is a recognized legal term that gives municipalities a versatile tool in interpreting provincial policy statements.

The city of Ottawa supports the repeal of the apartments-in-homes provisions, as this is a matter appropri-

ately addressed by the municipality. Under the previous government, I presented the city's views on the apartments-in-houses legislation at the time. At that time, the city of Ottawa was also opposed to the implementing of that piece of legislation. With the repeal of the apartments-in-houses provisions coinciding with the date of introduction of the bill, the city of Ottawa is of the view that the established rights provision should be revised.

You will hear from people and we have heard from people and we are aware of a number of cases where individuals were proceeding in good faith, even though it was legislation the city of Ottawa did not support and I personally did not support, but in good faith there were people who were proceeding with plans to create apartments in houses before the introduction of the bill, but had not obtained building permits and therefore did not qualify for the grandfathering provided by the bill.

We suggest consideration be given to amending the grandfathering provisions to allow the creation or alteration of houses with two units where, prior to the introduction of the new legislation, an application had been made for development approval such as rezoning, committee of adjustment, site plan control or building permit, or where the proponent had otherwise declared a serious intention to develop in accordance with the Residents' Rights Act. As I say, you're going to hear from people on that one today and we believe they should be accommodated.

The city of Ottawa supports the proposed amendments dealing with appeals of decisions on official plans, zoning bylaws, interim control bylaws and variances and permissions by public bodies, and the elimination of the right of public bodies to request an extension of time to comment on a zoning bylaw amendment application. These amendments will streamline the process, we believe, without unduly affecting the rights of any of the stakeholders.

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The ability of local municipalities to approve their own official plans and official plan amendments is another amendment that we support. Issues of local significance do not need to be debated and approved at the region, and approval authority at the local level should result in more timely approvals since it will avoid the additional three- to four-month process required at the region. If you'd been here for the hearings on Bill 26, I would have been able to tell you why it's necessary to make changes to the regional municipalities and the municipalities under that, to enable one level of government. But that's for another hearing. We do believe, though, that once it's been approved at the city, it should not be debated and approved at the region. This will have the added advantage of enabling zoning bylaws which are dependent upon the approval of official plan amendments to come into force immediately upon local council decisions in the case of uncontested official plan amendments.

While the change to the minor variance process is one of the more profound changes and is one which will require careful consideration by council, the city supports the options being presented in so far as the committee of adjustment is concerned. The options do enable decision-making at the local level. However, it is suggested that

consideration be given to providing a right of appeal to city council even when a member of city council sits on the committee of adjustment.

With respect to the proposed amendments to the zoning process, the city supports the amendment relating to the submission of prescribed information and material. This amendment will enable the city to establish clear submission requirements for the benefit of all stakeholders and will provide a clear definition of the commencement of the time frame to trigger the right of appeal. Furthermore, the city of Ottawa supports the amendments relating to the public bringing their concerns to council early in the process. This reinforces the principle of preconsultation, which is a cornerstone of our development approval process. The city of Ottawa supports the elimination of the requirement to hold a public meeting for subdivision approvals. The elimination of that requirement will tend to streamline the process, again without unduly affecting the rights of the stakeholders.

We also support the amendment assigning the authority to pass bylaws exempting lands from part lot control to the city without the need for regional approval if the city has been delegated subdivision approval authority by the region; again, two levels of government do not streamline anything. It is appropriate that the rules applicable to bylaws exempting lands from part lot control be consistent with those applicable to subdivision.

The city of Ottawa does, however, have certain concerns with the proposed legislation which we feel warrant further consideration. For example, the removal of the power of the Ontario Municipal Board to dismiss matters on the basis of prematurity because the necessary public water, sewage or road services are not available within a reasonable time would place additional pressure on municipalities to extend services to raw land, because it has been designated in official plans, zoned and subdivided, at the expense of programs aimed at achieving intensification and efficient utilization of existing serviced land prior to expansion into non-serviced areas. The city suggests the province amend Bill 20 to allow municipalities to enter into servicing agreements. The city believes it is particularly important to be able to enter into agreements with development proponents regarding the provision of services concurrent with requests for increased density, where additional services are required. Such requests for development through intensification may result in increased demands on service capacities and the city should be able to respond to these demands.

Another example of an area that might be given further consideration is the approval time frames. While the city of Ottawa does support many of the proposed time lines, there are instances where the city of Ottawa does have a concern as it relates to our ability to solicit, act upon and resolve input from the public to official plans and official plan amendments. Only the most straightforward amendments can be dealt with under the time frames established by Bill 20, in our opinion. For example, given that many of the official plan amendments are of a complex or controversial nature, we are concerned that the Bill 20 time frame does not allow the city to undertake its traditional public participation processes or properly

resolve issues. We believe the province should amend Bill 20 to enable municipalities to adopt, by bylaw, an alternative process to the time lines set out in the act. We believe that this should be the case, provided that they do not hamper the *raison d'être* for the bill, which is, "An Act to promote economic growth and protect the environment..." We must allow public participation, but we believe that it can be accommodated.

Another area where further consideration is warranted is the removal of the provisions of the act allowing zoning bylaws to prohibit all uses or classes of buildings on land within significant natural and cultural heritage features. While normally the city does allow uses which are compatible with significant natural and cultural heritage features, the option of prohibiting all uses should continue.

Just a few words about amendments to other acts:

The city of Ottawa supports the amendments to the Assessment Act. It's appropriate that the legislation allow other public and private sectors access to the detailed property descriptions component of the planning data file.

The city of Ottawa supports the amendments to the Development Charges Act and the Municipal Act, as they are appropriate pending the comprehensive review of the act to take place in 1996.

As for amendments to the Municipal Act relating to the registration of apartments in houses, while the ability to require the registration of apartments in houses is supported, the registration system does not appear to provide a benefit to the city of Ottawa.

The amendments to the Ontario Heritage Act are also supported. The amendments appear reasonable and cost-effective, and the opportunity for a pre-hearing conference prior to Conservation Review Board hearings is welcomed as it will tend to facilitate the resolution of disputes.

Mr Chairman, members of the hearing and my own representative at Queen's Park, this concludes my presentation on behalf of all members of city council and indeed the public who are in this area who will be presenting to you today. I thank you for your attention. As I stated, the full report, including the motions and those who voted yea and nay etc, are there for your perusal.

Mr Christopherson: I'd like to draw your attention to your comments on page 5, where you talk about your concern about having the time to "solicit, act upon and resolve input from the public..." We had a deputation earlier from a group of your constituents who said—and they're directing this to the government obviously—"If you take away our time, you take away our voice," their concern being the obvious, that if they don't have enough time to review and to dissect things—much as we found with Bill 26 where people didn't have the time they needed to look at the proposed legislation or the proposed initiative by government—then in effect they're not being given an opportunity to participate. Would you agree with that kind of a quote?

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Mrs Holzman: Not at all; I would never agree with anything unless I saw the specifics. We pride ourselves on a very extensive public participation process. We put up the biggest signs that we can find in both languages to

indicate when something is happening in a neighbourhood. We circulate information. We make information available in a timely fashion. From time to time, people aren't aware of it because they don't realize that it affects them until somebody tells them. However, our councillors are out there in the community constantly, and they make sure that their constituents know what's going on in their area. When I was a councillor I did the same thing, and as the mayor I make sure that information is available.

If there were some specifics, I would be pleased to hear from them. It all boils down to many people think that politicians don't hear because we don't amend whatever it is we're dealing with to reflect their views. We have heard, we have listened, but sometimes we don't agree. So if there are some specifics, I would be glad to follow it up for you—specific applications or reports or whatever.

Mr Bruce Smith (Middlesex): If I might follow up on that comment that my colleague made, it was with interest that on page 14 in the appendix you sort of draw some summary conclusions with respect to the public consultation. It suggests to me—and if I'm misunderstanding this, please let me know—that irrespective of shortened time frames, in all likelihood applications based on their merit, whether good or bad, may take a longer period of time, so whether we're shortening them or not, that doesn't suggest to me in the context of what you've presented here that you're concerned that good planning decisions might not arise from that. Am I reading that correctly, when you're making sort of that summary comment there?

Mrs Holzman: In my opinion, and from my experience, council does its best to make good planning decisions. Sometimes the good planning decisions that the politicians make, no matter how much time they have, do not reflect what the applicant wanted or what the objecting people in the area might be putting forward. But ultimately, council believes it's making good planning decisions, and whether it's in a short period of time or a prolonged period of time, council feels they make good planning decisions.

Mr Smith: You quickly, or in an abbreviated sense, alluded to the Development Charges Act. Last week at Queen's Park we received a submission from a consultant who has prepared a number of—I think it was about 150 different—development charges bylaws across the province. He expressed a view that the transitional provisions in Bill 20 are hamstringing you a little bit in terms of how to deal with development charges. Is that a concern you share with respect to what we've identified?

Mrs Holzman: Our city council took the decision that we were going to eliminate development charges because we wanted to encourage the development industry, the construction industry. So we've eliminated development charges, both for residential and commercial and industrial, because at this period of time in the city's history it's more important to create the jobs and get some development activity taking place. That's how we've dealt with it at this time. If you want to go into specifics to the act, I would be glad to, but that's what we've done at this time.

Mr Gerretsen: Just to follow up on that point, you did that because of the development pressures and because of

what's happening in the economy etc. You didn't need Queen's Park, in effect, to tell you that you couldn't raise the development charges, which is what this law is saying. You didn't need that kind of extra push from them; you did it on your own.

Mrs Holzman: We didn't need Queen's Park to permit us to eliminate them. Is your question to me, do we believe that Queen's Park has to say whether we can raise them or not? Is this what the question is?

Mr Gerretsen: That's right. That's my question. I mean, the municipalities are to be more autonomous according to Queen's Park, and yet they're saying in the Development Charges Act that you can't increase them any more than what you have right now, for whatever reason. But I'm saying—I totally agree with you—that municipalities, through economic forces of supply and demand etc, will determine whether or not they should be high or low.

But I'd like to raise another issue with you for just a moment, and that deals with the public meeting process as far as subdivisions are concerned. It seems to me that a lot of different municipalities require different methods of—you know, when land is being rezoned and OP amendments are done, some municipalities require a great amount of detail and some don't. I'm a former municipal politician as well and I've worked in the development industry. It seems to me that only then do the people really know what is being proposed for that land. To sort of talk in blobs in official plans and to a certain extent in zoning changes as well doesn't really give people a complete picture as to how that subdivision's going to be laid out, where the parkland's going to be, where the medium density is going to be—this, that and the other thing. What is wrong with having a public meeting? I'm sure that your municipality probably would in any event, but what's wrong with legislating that in the act?

Mrs Holzman: Well, first of all, zoning is the vehicle that we use. But I'm going to turn this over to Mr Moser, the director of planning, if you want to know exactly what we do, because we have a very good process.

Mr John Moser: From our perspective, in the city of Ottawa we don't do very many subdivisions because we're already pretty well built up, but certainly if we do subdivisions, it's usually in the context of having a rezoning application. We do the subdivision at the same time, so we roll it all together and then we do have a process that—

Mr Gerretsen: But not all municipalities do that; some do the rezoning first. You don't actually see the detail until a subdivision is done.

Mr Moser: Fair enough. But we tend to do it simultaneously.

Mrs Holzman: I'm only the mayor of the city of Ottawa, not all the municipalities.

The Chair: Thank you very much, your worship and your staff. I appreciate you taking time to make a presentation before us here today.

TOWNSHIP OF CUMBERLAND

The Chair: Our final presentation of the morning will be from the township of Cumberland. Good morning.

Mr Brian Coburn: My name is Brian Coburn. I am the mayor of the municipality of Cumberland. We're in a partnership and sharing format in Cumberland, so I want to share some of my time with Mr Peter Vice.

First of all, I'd like to compliment the government in taking the initiative to revamp the act and doing it in an expedient manner. We certainly agree with the principles that are stated in the policy statement.

We support the reinstatement of the requirement that planning decisions "have regard to" provincial policy statements.

We welcome the reduction in the time line for adoption and approval of OP amendments from 345 days to 195 days. If there's not a commitment to timeliness, then there will not be a commitment to ensure that the process works; rather, excuses, legal wrangling and, in a lot of cases, nonsense will take over the agenda and the process will never work. The desire to promote efficient development and land use will be hijacked by those who wish to frustrate the process.

Similarly, the desire to reduce the approval time line for draft plan of subdivision applications from 180 to 90 days and consent applications from 90 to 60 days is welcomed.

I'd also like to point out to the committee that it is important that various ministries give explicit direction to their staff who are involved in the approvals process to act in a timely and expedient manner. In the past, all too often ministry staff liked to let you know they were the boss and simply didn't care how long you waited for them to respond to circulation. It is my belief that you lay the rules and you also have the responsibility to direct your respective staff to respond promptly and get rid of the "When I get time" attitude. I would like to point out there are some excellent individuals in some ministries who do the utmost to fulfil their responsibilities; however, their exceptional efforts are overshadowed by some provincial employees who are in desperate need of an attitude adjustment.

I'd just like to give you an example: Cumberland is one of the fastest-growing municipalities in the entire country. In 1988, we started the process to get official plan approval in Cumberland and at the region. I'd like to let you know that I haven't got a damn house built there yet. We spent over \$2 million in the process—study after study after study—thanks to various ministries diddling around, uncertainty and—I don't know if any of you have ever sat in on some of these situations where you're dealing with staff and say, "Oh, wouldn't this be a good idea to have checked?" "It might. Good, you're right, John. Let's go and check this too. And maybe you might want to have a look at that while you're doing it." It goes on and on and on. There never seems to be an agenda, there never seems to be a desire to get to the end of the day and stay focused on the goal of what we're all trying to do.

Turning now to the policy statement under section 1.1.2., subsections (a) and (g) deal with the requirements relating to the provision of infrastructure and services. Subsection (a) indicates that growth should "avoid the need for unnecessary and/or uneconomical expansion of services and infrastructure." Subsection (g) requires that

land uses and densities "are appropriate to the type of servicing which is planned or available." These two subsections are somewhat unclear. It's not really known how "unnecessary" will be determined in (a) or how "planned or available" will be addressed in (g). It appears that these requirements suggest that those areas where services currently exist will get more growth and areas which require additional services may, just by default, be ruled out.

The overall intent for cost-effective growth is good and this policy should be clear in its intention to encourage this without ruling out alternative means for achieving this goal.

What we mean by that is that there may have been rules or criteria laid down in previous years, 10 or 15 years ago, and then you come to today where the economics have changed, and that may not suit and it may not be economical to continue on that path but rather a new direction taken.

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Clause 1.1.3(g) refers to the sensitive land uses being buffered and/or separated from each other. Sensitive uses, such as a sewage treatment facility, industries, aggregate activities etc, have traditionally been separated from uses such as residential development. Instead of buffered and separated from each other, maybe you would consider revising it to indicate that such uses should be separated from dissimilar uses, and that then becomes a local issue that can really be dealt with through the public process.

Under section 1.2 of housing, clause (b) requires that a three-year supply of residential units be draft approved or registered at any point in time. We believe this should be revised to include lands which can be readily serviced and not just those already approved. The current practice of the development industry is not to carry large draft approved subdivisions because of the tax implications. You go broke waiting on these things to happen. This has been brought forward to government after government after government. Will somebody please move along and do something about it? Small phases are draft approved in order to satisfy the annual needs. In fact, the tax implications in draft approved subdivisions should be investigated and changed to stimulate development. Right now it's a significant detriment.

Under definitions, maybe you could take a look at "institutional." It's confusing and it's unclear. Maybe somebody can explain it to me, what it really means. It's a good definition, but I don't think it applies appropriately to this document.

During the preparation of official plans there must be regard for the provincial policy which helps to mould and shape the official plan. Absolutely. However, after the approval of the official plan, that should be the guiding document. We don't want to go through another process. We'll look at the official plan, "We'd better go back and have another five or six meetings to look at the policy that's laid down." The whole document was determined as a result of the policy. That may help streamline the process.

I would like to emphasize as well the importance of laying out guidelines for implementation of the policies in a timely and expedient fashion. In fact, if you practice

the same due diligence with the guidelines as you are with implementing the policy, then I don't foresee any problems. I'm sure that must be ongoing. It will dovetail right into this, because if you approve this and then we fiddle around trying to get guidelines for the next 12 months, we're going to be in a real quagmire.

I'd like to thank you very much for giving this opportunity to address the committee. I would ask that all of you, it doesn't matter which party, please stay focused and determined to improve the process. We owe it to the people of Ontario. They really want to go to work.

Mr Peter Vice: Firstly, by way of background, I'm with the law firm of Vice and Hunter. I was called to the bar the same year as Bob Chiarelli. That's how old I am.

Mr Carr: Wow. You both look young.

Mr Vice: And I can tell you that I have practised in this field now for 27 years. I also teach the community planning course at Ottawa U law school, and our firm has acted for just about every municipality within the region and eastern Ontario over my career. We have numerous retainers from municipalities at the present time. We also act for the development community and at times for community groups. So we're pretty well-rounded.

Firstly, let me say to members of all parties I support everything that my friend the mayor of Cumberland has said. I think he hit a lot of the points right on.

Mr Gerretsen: Do you represent the municipality?

Mr Vice: One of the municipalities I haven't acted for, Mr Gerretsen, is Kingston, so you can take it back and—but I did train, when I was at the city of Ottawa legal department, your present solicitor, Mr Jackson.

Having said that, I support everything that my friend Mayor Coburn has said with regard to moving this on, and I've been through just about every one, since 1971, of the amendments we've seen to the Planning Act, so I do congratulate you very generally on all of the matters that have been amended, save and except for two particular ones that I want to address.

The first one is the way minor variances are dealt with and the practical problems that can occur if you take away from a proponent the right to go to the Ontario Municipal Board. Over the years, I've probably had 1,000 applications to committee of adjustments in this area and, frankly, this is the last place, the committee of adjustments in Ottawa, where they are independent of the politicians, where you really get a true objective hearing and everybody is given their day. In addition to that, if they happen to, in somebody's view, make a mistake, I think it's very, very important that you do revive the right to go to the Ontario Municipal Board on minor variance appeals.

The reason for that is that what is going to happen—first of all, in talking to the board, I understand that the minor variances are only about 2% to 3% of their total work. That's their workload, 2% to 3%. But what is going to happen practically is that you're going to find that people are just going to apply for rezonings, because the minor variance route is simply a way of getting around having to go through the rezoning route. So they're going to apply for rezonings when they should be applying for minor variances and get the free ride to the board or at the administrative cost that has been set up.

Secondly, my concern as to putting minor variance applications in the hands of politicians is there's no doubt—and maybe I've been around the city of Ottawa too long—that politicians, notwithstanding of what stripe, trade votes. It's no secret that municipal politicians trade votes, and, "You support me on this matter; I'll support you on that one." That happens in the city of Ottawa all the time. The OMB is that last bastion of a chance for everybody to get the free hearing. To give you an example, I was once at a local committee of adjustments, which I won't mention, and one of the members leaned over and said, not, "What is on the other piece of land," but "Who lives there? Whose place is that?"—that person, a supporter or not a supporter. So I beg you to keep in place the appeals to the Ontario Municipal Board.

The other matter that you're going to find is that often on minor variance applications, they're twinned with consent applications. So you're going to have one body able to deal with consents, another dealing with minor variances. That doesn't make a lot of sense.

The third practical problem you're going to have is that you're going to fill your courts with applications by lawyers like myself saying the municipality didn't do a proper job. So you're taking from one level, from the people who do it best, who are experienced to deal with these matters, and taking it to the courts. That, to me, just doesn't make any sense, so it's my submission to you here this morning that you should revive within Bill 20 the appeal to the OMB on minor variance matters.

The one other matter that I want to briefly address is the one with regard to the Residential Rights' Act where under the previous legislation you could have an apartment in every house. I support the views that that should be a municipal decision. I can tell you in this area it probably won't happen very much for the very reasons I mentioned earlier in my comments on committee of adjustments.

But having said that, with regard to the cutoff date—and there aren't a lot of them, I'm sure, throughout Ontario—I think the cutoff date should have included anybody who had made application at the time. I think in Ottawa there's the sum total of 14 on my last checking. So 14 people had done all of their plans and then the cutoff date comes, November 17, and it's quite unfair to those people who have applied. I just think you should make that even as the date of second reading or the date of final reading. Second reading would be fairer, because it would give those people at this time the ability to get on with their plans. That's from an equity point of view, and I bet you wouldn't have 100 in the whole province.

Overall, and I can tell you I speak generally for the municipal planning law bar in the city of Ottawa, I can tell you that we welcome most of the amendments, save and except for those two I have spoken on.

The mayor and I will be happy to answer any questions that you can address to us.

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Mr Murdoch: I appreciate your presentation here, and I certainly can feel for you in your frustration with the bureaucrats at Queen's Park. Until we straighten that mess out, nothing's going to change. We can pass all the bills we want.

Mr Len Wood: You had 42 years to do it before and you didn't do it.

Mr Murdoch: Also, with your interest that since 1988 you've had a problem, I've said many times, and I'm sure most people agree with you, that the last 10 years have been lost years in Ontario, and that's what the problem has been the last 10 years. The bureaucrats have just taken over, and unfortunately we're having trouble.

Mr Gerretsen: Oh, come on. They were there before. Bring him to order. That's a purely partisan statement.

Mr Murdoch: I think, Barb, you have a question you'd like to ask them?

Mrs Fisher: Just on the minor variance appeal process.

Mr Chiarelli: Did Claude Bennett write your speech?

Mr Murdoch: At least when he was there, things got done.

Mrs Fisher: Just on the minor variance appeal process—and I'm just testing this because you've addressed it in detail as well—could a recommended solution be that no member of council be allowed to be appointed to the committee of adjustment, and then the client or the applicant have a right of appeal to the council as well and then, if they choose, to go to OMB as well. One of the constant concerns has been the right of the citizen and the ability to pay. If it ever came that there was a fee back from the OMB, there might be a resolve, almost on a mediation level, prior to that. Could that be a suggestion?

Mr Vice: I can say that I would be very happy to live with something like that, but you have to give not only the municipal council the right to send it to the board, you have to give the proponent that right also.

Mrs Fisher: Yes. But if you take out the council representation on the committee of adjustment, the first step, then that gives you the right to council, and then the applicant or council could still have the right to the OMB.

Mr Vice: Exactly. I was thinking over last night as I was looking at some of this stuff that another way might be to give the proponent the right to either go to council or go to the board, but you have to maintain the right of the individual, the small person, to be able to get to the board.

And don't get me wrong. The board has a great mediation process. The mediators at the board presently are doing a great job and they'll continue to do that.

Mr Lalonde: First of all, I wanted to congratulate his worship the mayor of Cumberland. I'm saying his worship. They've just taken a position now that they will become the city of Cumberland in the very near future, and I want to congratulate—

Mr Coburn: I was worship before.

Mr Lalonde: Pardon?

Mr Gerretsen: He was a worship before that.

Mr Lalonde: I know. I have just a small question. What impact will this Bill 20 have on your future city, the city of Cumberland?

Mr Coburn: Oh, very positive.

Mr Lalonde: On the business side and the industrial side?

Mr Coburn: By amending the act, it will be very positive. I'll be ecstatic if the staff and then the process follows through as it's supposed to. Then we all should

be happy, because things will get along and I'll be able to maybe attract a few jobs out there to help pay the bills. So it's encouraging.

Mr Chiarelli: Peter, if the minor variance appeal is retained, how can the process be expedited and made less expensive? In many cases they truly are minor and in many cases the appeals are frivolous, and it's very costly to individuals and it takes a lot of time. Basically, do you have any recommendation how the appeal process can be retained but expedited and made less expensive?

Mr Vice: Yes, Bob, I think I do. I think that the board in the past has been really reluctant to give effect to a section within the act where it can dismiss for "insufficiency," I think the word is. The board, because it's a board of the people, so to speak, has been concerned about dismissing appeals. I think if there's some clear direction to the board from the legislators to encourage them to do that for certain reasons—you might want to even set out in that section as to how they could do it, because I certainly agree that you can have a full day on a minor variance appeal often, and that's long and that's expensive. I agree with that. I think if the board is given encouragement within the legislation by way of setting out numerous reasons as to why they can dismiss, especially the ones that are more minor, then I think that would be helpful, Bob.

Mr Len Wood: We've had arguments that when you change it to "having regard to" instead of "being consistent with," it's going to add to uncertainty and it's not going to really help the development industry or the community. If you're saying they must be consistent with provincial policy, well, it's clear. It's like night and day.

The other one, and maybe you want to comment on it, is that I understand the Municipal Affairs minister is saying that one of the main reasons why he's bringing in so many amendments is that the policies are weighed too heavily towards protecting the environment. Do you have any concerns about that, if we're going to have policies here now that are not going to take any concern for the environment whatsoever, and the comment that I made earlier on "regard to"?

Mr Coburn: Just dealing with the "regard to," I think what that does is that puts more onus and responsibility and the decision back where the public that you're representing will have input on it. When you say "consistent with," that's a blanket policy across the province. Maybe what happens up around London is not something that necessarily fits here. In our desire, as politicians and public officials, to have public input and help mould and shape your community, that's what it's all about. That's what it's all about, and "having regard to," "Yes, these are the guidelines that we'd like to see you have some regard to."

I don't think you can write us off at the municipal level as being fools. We have some very talented people, politically and staffwise. We're not about to sell the ship in terms of the environment in our community either, and we're not going to let any developer run away with it. I think you'll find a lot of developments, after, post-development, exceeded the situation under—

Mr Len Wood: You're saying your municipality or this area wouldn't do it, but other areas in the province

might just say: "Well, 'regard for,' that doesn't mean anything. We'll just let it sit there on the shelf and collect dust and we're going to go ahead with what we're doing."

Mr Coburn: No. I still have confidence in the human factor, in human beings. We've got a democratic process where you elect people, and I think everybody who was elected, originally—let me qualify that, originally—wants to make things better. After they get stuck in this quagmire, that's when you compromise on what you're doing and you lose sight of all reality.

Mr Len Wood: Like we're seeing in Ontario.

The Chair: Thank you, Mr Wood. Thank you both for making your presentation here this morning. We appreciate your comments.

The committee stands recessed till 1 o'clock.

The committee recessed from 1207 to 1309.

BIG RIDEAU LAKE ASSOCIATION

The Chair: Good afternoon, ladies and gentlemen. Our first presentation this afternoon will be the Big Rideau Lake Association. We have 20 minutes for you to use as you see fit, divided between presentation and question-and-answer period.

Mr John Peart: Fine. Thank you, Mr Chairman, ladies and gentlemen. My name is John Peart. As you can see from your agenda, I am a director of Big Rideau Lake Association and I believe that you will have my written submission shortly, if you don't have it now.

What I'd like to do in the few minutes that I have available here today is to help you understand the context of our presentation. What is important for you to appreciate, listening to what I have to say, is that the nature of Big Rideau Lake is probably not that different from many other lakes, especially in eastern Ontario, except in terms of size.

We are a large lake. We represent 1,400 permanent and seasonal lake owners as well as their neighbouring—Big Rideau Lake is bordered by five townships and two counties and the watershed which drains into our lake is very extensive, all of this to say that the townships that surround Big Rideau Lake are rural in context naturally but also very small in terms of population. I would estimate that the average population of any of the five townships would be about 2,500 people and that would include the people who are surrounding the lake as well.

The townships are poor. They offer only minimal services. The councillors and clerks are all part-time. They do not have the financial resources to pay for full-time or regular planning advice, and this is the thrust of what I want to say to you today. Over the past many years the townships have worked closely with the Ministry of Natural Resources, the Ministry of Environment and Energy and the Rideau Valley Conservation Authority in developing official plans, zoning bylaws and dealing with planning issues.

The townships use the ministries and agencies to develop a big picture, that is, to let the townships see what is going on outside of their boundaries and look at what effect a particular zoning bylaw or a particular development would have on the entire Rideau system.

This has worked very, very well. In fact, we have had experience in the past where it has been excellent in the symbiotic relationship that has formed up. What made it work in part was that the ministries had the unspoken but very real ability, if necessary, either to assist townships or to carry out themselves a potential appeal to the OMB.

But Bill 20, in our submission, changes this. What it effectively does is leave the townships in a position of obtaining whatever advice the ministries' agencies can give them, this primarily because of financial cutbacks, and removes the touchstone of the policy statements that have given the township the right to ask for environmental impact studies and other studies to allow their decisions when they were required to make decisions to be consistent with the policy statements.

We believe that Bill 20 now will mean that townships will take the road of least resistance. They will rely on the developers' consultants to produce a report that appears to have regard to the much weakened policy statements and this will be the extent of the townships' studies. We feel that the townships then will have no ability or interest in considering the bigger picture but will deal only with individual applications on an ad hoc basis. We are very concerned that Bill 20 is going to promote planning which will lead to a piecemeal breakdown of the environmental integrity of the Rideau watershed.

In our written submission we've outlined six areas that we feel should be considered by this committee, and these are:

First, removing the restricted definition of "public bodies" to allow other ministries as well as the Ministry of Municipal Affairs and Housing to appeal zoning and development issues.

Second, requiring municipalities or at least those without full-time planning staff to be consistent with the policy statements, that is, to not "have regard to" the policy statements but to "be consistent with" the policy statements.

Third, and perhaps the most important if nothing else, maintaining the integrity of the policy statements so that development can proceed in an orderly manner but with environmental safeguards in place.

Now we all know that there are weaknesses in the policy statements that followed Bill 163. I think that goes without saying, but what we are trying to say here is that we feel that the proposed policy statements go far too far in making these changes.

Fourth, we feel that official plans should be allowed to maintain their position as a skeleton upon which bylaws can be placed and not something that can be changed relatively easily more as an expedient to perhaps a zoning or other kind of development issue.

Fifth, we would suggest that public meetings continue to be allowed for plans of subdivision. Especially in rural settings, we find that it is difficult to meet the time frames that are set out in the Planning Act anyway, and one thing that tends to draw together a community at least to consider something is a public meeting. We're concerned that if the wording of this particular portion of Bill 20 is taken in its strict sense, these public meetings will no longer be part of the Planning Act.

Lastly, we're concerned with the provision that would deny appeals from minor variances where councils are also members of the committee of adjustment. What we're concerned here with is that many times committees of adjustment are very similar to township councils, perhaps simply exchanging past councillors with current councillors or vice versa, and we feel that without the ability of individuals or concerned persons to appeal to some higher level, then the township council would make really minor variance applications without the proper process.

We've seen that the government in the past can be quite creative, and this is the part that I find rather interesting. I follow very closely many of the government's initiatives in making changes to legislation, and one that comes to mind for which I must congratulate the government is what they've done in the area of the Substitute Decisions Act and the ability they had there to carve out portions of the act that they found they wanted to change but to leave the integrity of the act in place.

We think this can be done to the Planning Act, and what we feel is happening through Bill 20 is that the government is taking a very heavy approach to something which needs relatively minor amendments. We feel that you could probably leave the Planning Act as it was by simply revising the policy statements or, vice versa, you could change the Planning Act through Bill 20 in part but leave the policy statements in place.

Those are my submissions.

The Vice-Chair (Mrs Barbara Fisher): Thank you. We have about two and a half minutes per caucus and we'll start with the Liberal Party this time.

Mr Gerretsen: I'm very much interested, sir, in the notion of public meetings during a subdivision process. I think there are different standards in the province as to what's required by different planning departments and councils. In order to get a rezoning, some require very extensive plans which the public would have access to and a public meeting would be called and others do not require that. What has been your experience from the Big Rideau Lake Association's viewpoint?

Mr Peart: We have found that the townships take it as a matter of course that they have to have a public meeting. They rely very heavily on guidelines produced from the Ministry of Municipal Affairs and Housing because of their rural nature. We find that these meetings on plans of subdivision are very well attended, even from the standpoint of information.

Mr Gerretsen: But that's the current system. Under the new proposed system you wouldn't need a meeting like that. But my question to you was, would you agree that more people come out when the actual subdivision plan is put forward for approval rather than when a property is simply rezoned and the plans for it aren't as extensive?

Mr Peart: There is no question. It's been our experience that you get much greater numbers out during a plan of subdivision than you would through a simple rezoning.

Mr Christopherson: Thank you for your presentation. I want to focus on your concern regarding the change from "be consistent with" to "have regard to." You state in your submission that you've already had some experi-

ence with that and then you go on, when and talk about the policy statements and the way they're being revised, that ultimately the "have regard to" test is meaningless. Can you just expand on that a little bit for me?

1320

Mr Peart: I certainly could. It's been my experience, and I believe that the OMB decisions will bear me out here, that "have regard to" from the standpoint of the OMB and case law is that so long as the townships have looked at the policy statements and compared them to what the proposed development is, and as long as in their mind they're satisfied that they've been able to "have regard to" these statements, that they have looked at them, that's all they have to do, and there's been a big change from Bill 163 and "be consistent with." I think that they are light-years apart.

Mr Gerretsen: When you say you believe it will be meaningless I have to share the thought, that at the end of the day the government is trying to set up a situation where local municipalities can do whatever they please. Government members will argue that what they're doing is providing flexibility to local councils to be sensitive to local needs. Our concern on this side of the table is that in effect they're just cutting loose municipalities to do whatever they choose and taking a hands-off approach. Would you agree with that or is that being too harsh?

Mr Peart: No. I agree with that totally. I think that the portions of Bill 20 in this regard work if you have a relatively sophisticated municipality with in-house planning and legal staff. But in our part of the world that doesn't happen that way.

Mr Smith: I notice on page 4 you make reference to minor variance appeals and your concern that the proposed bill has with respect to that area. Would it be your view that the status quo should prevail in terms of the current appeal mechanism or is there an alternative appeal mechanism that you think would be appropriate to the decision-making bodies in your communities?

Mr Peart: Quite honestly, I cannot think of any other process than what we have now. It works relatively well, especially with the OMB mediation process that we now have in place. I don't think too many of these minor variance applications do get to the OMB formally and it could probably stay the very same.

Mr Hardeman: I found the analysis at the end of it rather interesting, when you suggested that maybe instead of changing both the wording of "shall be consistent with" and the policy statements, we could accomplish what needed accomplishing by doing one or the other but not necessarily both. Are you then implying that being consistent with does force municipalities to do exactly what the policy statement says and not make any local decisions?

Mr Peart: No. I'm not going that far. I do feel that when you use the words "be consistent with" you are forcing municipalities to a much higher standard than simply "have regard to." Not only must they simply consider the two policy statements on one hand and the development zoning proposal on the other, but they also must make sure the two of them marry up, at least to a strong enough degree that they will not be faulted. To deal with the policy statements on a "have regard" basis, as I've said, isn't going to accomplish anything.

The Chair: Thank you very much for making your presentation before us here today.

LYALL GRAHAM

The Chair: Our next presentation will be from Lyall Graham. Good afternoon, Mr Graham.

Mr Lyall Graham: Thank you, Mr Chairman. Members of the panel, I'm Lyall Graham. I would like to address the problems of the restrictiveness of the nature of the grandfather clause in Bill 20 that in its present form will prevent myself and others from completing basement apartments in our homes. I started mine before November 16, 1995, and I'm not implying that I see this section of the legislation restrictive in any nature, because I don't. It may be a little bit hasty, that's all, in the broader sense of the term.

My presentation is in no way a deputation. I speak for and represent myself only. I know and am aware that you know there are others in somewhat similar circumstances who are caught up with the same issue. Are we going to be able to complete what we started? That is what we're asking ourselves. But I think there's more to it that you have not heard to date, that it has a little bit of twist to it, but I'll get around to that later.

It's only realistic, after listening to some of the questions from the panel, to feel encouraged that it is not your intention to unnecessarily cut somebody off at the knees when the time comes for making a decision. That there is room for and leeway in some issues seems encouraging to me. I'd be surprised if this committee didn't recognize the dignity and work of the individual along with the big-ticket items.

The first two pages of my brief deal with what I have to say and the following four pages are factual information to substantiate the first two.

You are aware, I'm sure, of one group of builders of basement apartments that is asking for such leeway. It is those who had applied for development approval prior to November 16, 1995, the day when construction for all of us came to a halt. But there is a companion group as well, which Mayor Holzman alluded to, of which I am one, that also deserves your recognition. It is those who up until November 16, 1995, had contributed a lot of time and money at the stage of pre-heavy construction. Here's an example. When the residents' rights legislation was proclaimed, I began immediately with the preliminaries to have a basement apartment in my home. But am I to be penalized because I didn't apply immediately for a development permit?

You can do a lot of work, spend a lot of time and make a lot of plans before you arrive at the stage where you need one. I began with three inspectors coming out to the house to see the application of the new legislation, because it was right at the beginning, who pointed out that I would need a permit to construct the parking space for a tenant. I got a city permit, which took three months, and altered the landscaping. The cost was just under \$400 plus the landscaping. The two of them totalled about \$1,200. There were further expenses for purchases of lumber, electrical hardware, large appliances for apartments, and the architectural fees were \$600. All in all, my contribution to date is just under \$5,000.

Council for the city of Ottawa as well as the Ottawa-Carleton Home Builders' Association have recognized this group of people such as myself, my group that I'm speaking about, as "proponents who had otherwise declared a serious intention to develop in accordance with the Residents' Rights Act" deserving a chance to finish their apartments.

If I can dramatize this a little by comparison as a picture of a man and his wife sitting around some evening talking about putting a basement apartment in their home, he says: "Dear, Mr Rae has made it available to us to go ahead and do this under the Residents' Rights Act. Do we need a basement apartment or do we not? Why shouldn't we go ahead? Your brother is an architect. He won't charge us anything." So they proceed, and after a few days they get finished drawings and they go ahead and present that in the way of a development permit.

There's not much commitment there. They may sit around and they start a basement apartment or they never will, but they are at that process. If there are rewards to be handed out, or better still, if there is an axe to come down, who deserves consideration and who should be the one who's penalized over the other? Is it a dummy like myself who piled up a lot of work and expenses and was about to apply for a permit at the critical time on November 16? I don't know. It's up to you to decide.

1330

My brief describes a way of showing adequate progress in order for people like myself to qualify. The records that I've kept regarding times and permits and money are open for review. They have been accepted by council and by the city as making sense, and it's feasible. So it's both groups that are able to show intent that should be considered, not just one over the other.

Our friend Mayor Holzman has shown that city council feels it is fair and that we should be considered as one group and perhaps will find a way of describing us as one group and as eligible proponents who had otherwise declared a serious intention to develop in accordance with the Residents' Rights Act whose applications are pending. There's very little difference between the two of us.

Mr Christopherson: Certainly, as a member of the government that enacted the current legislation, we would be very supportive of your right to continue the process you've begun so that you can recoup your investment, but also to ensure that there's at least one more affordable unit within the housing stock in this area.

Mr Graham: I plan to remain in the area that I live in. I know the neighbours and I'm going to spend the rest of my days there. It's very important to me.

Mr Christopherson: Sure. Obviously you made application believing that this was in your best interests, first and foremost, or you wouldn't have started the process. I would also assume that you feel this is beneficial and appropriate to your immediate neighbourhood, that you're not going to cause any harm to the existing quality of life to your neighbours by doing this.

Mr Graham: I wouldn't think so. My neighbour has three students staying, there coming and going, which puts a lot more stress on the services, a little more infilling there. I live right beside the Ottawa Civic Hospital. Another one has a bed and breakfast. There are

only nine people on our street and the hospital is right opposite, so there's nobody on the other side at all. We're kind of isolated. But you mention permits. I haven't made an application for a permit. I was about to make an application for a permit. I made an application for a landscaping permit and then completed the landscaping.

Mr Christopherson: If you believe that this is appropriate in the circumstances for you and your immediate neighbourhood, would you believe that the continuation of the existing legislation could also be helpful to our society as a whole and therefore agree that it should be left the way it is?

Mr Graham: You mean under the Residents' Rights Act?

Mr Christopherson: Yes.

Mr Graham: I'm afraid not. No, I wouldn't think so.

Mr Christopherson: So you want to keep it for you but shut it down for everyone else? I'm assuming that's not correct, but I do need to hear you.

Mr Graham: I'm just saying the right rules, there seem to be more people and you have to look at the different residential areas. If you took a plebiscite, there would be more people in our area who—not right on my street but behind me, some pretty nice-looking areas. Naturally, a lot of doctors who work at the hospital have swimming pools and they might—I know what you're saying. I have opportunity to serve on committees with them. I know what they're like and so forth because of restrictions on parking in the area. I wouldn't go against them on that. I would discuss it with them.

But if I could retract a little bit, I think I might be a little bit more the other way, where I would like to see it happen. But you have to deal with both sides and hear both arguments.

Mr Christopherson: Right. I do hope that the government sees its way clear to help people who are in your circumstance and, beyond that, wish that it would recognize the damage it's going to do to affordable housing through all of its housing policies.

Mrs Fisher: I was interested in your presentation because I was a little surprised, having spent five days of hearings in Toronto already, that it seemed to be a major issue in Toronto and was surprised that the city of Ottawa and the surrounding cities weren't experiencing some of these as well. So I'm glad somebody showed up.

Mr Graham: I'm sorry. I didn't hear a thing. I have a hearing aid but it didn't come through.

Mrs Fisher: I was saying I was glad to have your presentation here this afternoon because one of the questions I was asking at lunchtime was that of the presenters so far today, very few mentioned it and only one in any magnitude. They talked about only 100 applications, since the time that Bill 163 came into effect to where we are today, that might be affected.

Mr Graham: Mayor Holzman mentioned it.

Mrs Fisher: That's what I'm saying. One other party certainly did. What I'm wondering is, you did mention that there's a unit in the house next to yourself, where there are three students living. Would that be considered in a second flat definition then?

Mr Graham: I wouldn't think so. I don't think that'll change. I don't think bed and breakfasts will change

either. That's my interpretation, but maybe you know better.

Mrs Fisher: Has that put any stress on the reliance on servicing or impact in the community because of the coming and going?

Mr Graham: A lot more stress is put on the nine houses because we all share common laneways and we don't have any fences between the lots, so we're kind of a unit there. Yes, I could see where in some cases it would put stress on them, but in my area it doesn't. I guess you'll have to look at the other applicants and see if it does.

Mrs Fisher: It looks like with Bill 20 the municipality will still have the right to make a decision whether or not to continue to allow second units or not.

Mr Graham: Are you talking through the committee of adjustment for a zoning change?

Mrs Fisher: Under Bill 20, under the new act, there is a section there that allows for municipal councils to continue allowing second units if they choose to.

Mr Graham: Oh, yes. That's the same as it always was. That's just going back to the old way.

Mrs Fisher: But that wouldn't really deter or affect you negatively then.

Mr Graham: It's not an effective way, it's tantamount to failure to go that direction. That's why I'm a little edgy and hoping that you'll take action and just change the grandfather, wind it up a little bit.

Mrs Fisher: I understand.

Mr Hardeman: If I could just quickly go back to the issue of the building permit, you said you have not yet received a building permit. Have you applied for the building permit?

Mr Graham: No, I hadn't applied, sir.

Mr Hardeman: So the city has not made a decision on whether it should or should not issue a building permit during the interim.

Mr Graham: To people like us?

Mr Hardeman: Yes.

Mr Graham: Yes, they have. It's in their presentation that they want to include us with those that have applied as proponents who "had otherwise declared a serious intention to develop in accordance with the Residents' Rights Act."

Mr Hardeman: So you were looking to be part of that group that has applied but has not been issued a permit by the city until the proclamation of Bill 20.

Mr Graham: That's right. I hope so. But that requires your sanction. I mean, it's up to you.

Mr Hardeman: With the city's stated intention that it wishes to have those included as grandfathered in Bill 20, would that tell you that it would also be looking favourably upon extending the second-unit rights in areas of the municipality?

Mr Graham: You should have asked that to Mayor Holzman when she was here.

Mr Gerretsen: I notice that Mr Hardeman, who's the parliamentary assistant of Municipal Affairs and Housing, didn't answer your question.

Mr Graham: Who's that?

Mr Gerretsen: That's Mr Hardeman the minister's right-hand man, and he could give a commitment—

Mr Graham: Come on over to my house, we barbecue a salmon tonight.

Mr Gerretsen: He could give a commitment right here and now that the government would do the right thing and give people like yourself who are caught in this Never-never Land the opportunity to complete your unit. Can you give us that commitment, Mr Hardeman, that you will go back and you will get this changed? This is the only fair way to deal with it. Will you?

The Chair: I believe there was some concern expressed—

Mr Gerretsen: He can answer for himself. He's a grown man. Will you?

The Chair:—by your party about debate earlier today, Mr Gerretsen.

Mr Gerretsen: I guess he's not going to give you that commitment, but I think it's the right and fair thing to do. I didn't quite understand the answer you gave to Mr Christopherson here. You're saying that you want it for yourself but not for somebody else?

Mr Graham: Yes, but I reversed that.

Mr Gerretsen: Okay, you didn't mean that. I understand. I just wanted to get it right on the record, because when we go back to Toronto, the government members will be reading through Hansard and they'll be picking all this stuff out.

1340

Mr Graham: Do you not like those guys?

Mr Gerretsen: Personally they're all right but they're in the wrong direction, unfortunately.

I like this comment that you make about zone changes and committee of adjustment matters. What has been said in the past is that if a minor variance—if you can't appeal it to the OMB, just do a zone change and the impression has been left that it's very expensive to go to the OMB on a minor variance—

Mr Graham: And time consuming.

Mr Gerretsen: But I would suggest to the government members—and I wonder if you could confirm that with me—that it is probably three times as expensive to go through a complete zone change.

Mr Graham: That's right, and very time consuming.

Mr Lalonde: At the present time I think the bill will permit the municipality to allow the second apartment, but I'm surprised to see that you were not able to go ahead with your apartment as planned at the present time.

Mr Graham: Well, it's Bill 20 that did that.

Mr Lalonde: Bill 20 hasn't been passed in third reading yet.

Mr Graham: Retroactively.

Mr Lalonde: And also, it doesn't state that you will not be able to go ahead with the construction of a basement apartment.

Mr Graham: Well, it does say—

Mr Gerretsen: It doesn't say it will either.

Mr Lalonde: No, it doesn't say it will either, but there's one thing that we'll have to remember. We have to be very careful of the services of the municipality, like is there parking facility available within the area to accommodate your basement apartment?

Mr Graham: I had to make one. I had to get a permit.

Mr Lalonde: There are all sorts of problems that could be created to a municipality whenever there's a

second apartment being built without the municipality's approval. We are in favour. The municipality could have, within their official plan, the permission of not going through a zoning amendment to allow the second apartment, but this is left to the municipality.

Mr Graham: I may be dead by then.

Mr Baird: Don't humour them.

Interjections.

The Chair: Thank you, Mr Lalonde.

Mr Graham: I want to go fishing.

The Chair: Thank you, Mr Graham. We appreciate your taking time to come today to make a presentation.

OTTAWA FIELD-NATURALISTS' CLUB

The Chair: Our next group up is the Ottawa Field-Naturalists' Club. Good afternoon.

Mr Michael Murphy: I'm just going to read some prepared remarks which your assistant is distributing. If there are any questions, I'd be happy to answer them. If not, I'll let you get ahead of schedule.

Thank you for the opportunity to speak to your committee. I represent the Ottawa Field-Naturalists' Club. Since 1879, our club has promoted the appreciation, preservation and conservation of Canada's natural heritage. I am currently the vice-president of the club and a member of the council which is its governing body. I also chair the club's conservation committee, which is a position bringing with it a particular perspective which may well be called a special interest, concerning the laws, statutes and regulations which affect wildlife and wildlife habitat.

A public review of any change to public policy is valuable as well as necessary, since it brings an opportunity for society as a whole to ask basic questions concerning good government and to expect reasonable answers. We believe that one such question, that of land owner rights, has been the driving force behind this particular set of revisions to the planning legislation and policies of our province, as proposed by Bill 20.

It is clear that certain recent reforms introduced by the former Ontario government, such as the 1992 wetlands policy and Bill 163, have been widely criticized and opposed by land owner groups. With respect, we believe that Bill 163 was properly enacted to achieve the goals of the province of Ontario as identified by the Commission on Planning and Development Reform after a consultation process much more extensive than that being undertaken by your committee.

But it seems equally clear that much of the opposition by land owners has been due more to the way these reforms were implemented than what they were intended to accomplish. We certainly heard this message again and again over the last two years in a series of meetings we attended with representatives of property rights groups. We met with them at every possible opportunity in the hope of reconciling the public interest with the rights of land owners and the implementation of Ontario's wetland policy.

We have taken a position of support for the affected land owners in the matter of compensation for development rights. In other words, if the public benefits, the public should be willing to pay. However, we also believe that society, as lawfully constituted, has rights

and responsibilities that must continue to take precedence over those of individual land owners.

The real question is: How can we identify the value of development rights that are affected by valid land use planning decisions to protect the public interest? We need answers to find a way for compensation to be fairly negotiated without necessarily requiring expropriation.

We strongly believe that provincial interest in the natural environment goes beyond the identification of areas of provincial significance: for adequate and effective protection of our natural heritage, a system of recognizing and preserving areas of local and regional significance is just as important. Provincial agencies such as the Ministry of Natural Resources must have policy direction and core funding for coordinating and monitoring such a system.

As an example from our own experience, for the past seven years, the Ottawa Field-Naturalists' Club and our partners have been gradually developing a 17-acre wildlife garden project near the Arboretum on the Rideau Canal here in Ottawa. We have experienced just how painfully slow, expensive and labour intensive the process of restoration of even a small area can be, even where there is strong support and almost ideal conditions. We have learned first hand that it is more effective to preserve existing natural areas than to try to rehabilitate them once they've been degraded and destroyed. Too much of our natural heritage is already gone forever.

That is why believe it would be unwise of the province to simply relinquish absolute decision-making authority to municipalities without effective measures making them both responsible and accountable for protection of the natural environment.

In our experience, municipal councils faced with a conflict between environmental values and perceived economic benefits, will go for the gold every time. This is understandable, given the competition among municipalities for the development dollars and development charges they need to increase revenues without raising taxes.

You and the other members of the Legislature must ensure that the province is able to continue to coordinate planning and resolve transboundary issues. As provincial infrastructure funding is phased out, which is a financial instrument which has been effectively used in the past to encourage municipalities to comply with provincial policy, this will be more and more difficult. In the interests of the public and the people of Ontario, we urge you to retain the power to enforce protection of the natural environment. Those are my remarks.

Mr Galt: Thank you for a very thoughtful presentation. Certainly you've been around quite a bit with naturalists and concerned about the environment, and I can assure you this government has no intention of destroying the environment or damaging it, but just coming around to who pays is the problem that I keep struggling with. Certainly land owners, as you've heard, are very upset with—you can use confiscating, expropriation, all kinds of terms have been used out there, when in fact they have lost some of the uses of those lands, particularly the ones that go around the wetlands. One of the councillors from a neighbouring municipality has

bought a very large marsh area in my municipality, and my hat goes off to her, I think that's just marvellous, and the purpose is to maintain it.

The Ontario government is out of money. The farmers or developers or land owners are upset over losing this land. Do you have any suggestions how we can go about ensuring that these people are recognized for their land properly and at the same time have it held for future environmental purposes?

Mr Murphy: Yes, sir, I do have a recommendation, one I advanced to the other members of the wetland working group, a forum in which we were able to meet with land owners, municipal planners and other interested parties on this very same question. There are very few instruments available to tackle the problem of compensation for conservation in the public interest, but one thing we already do is to tax land owners on the basis of the services they receive.

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It's maybe time we start to countervail that by offering compensation to those land owners who have lands which offer environmental goods and services, giving them a tax benefit on the basis of the environmental services they and their land provide. By retaining their land in a natural condition, they should be eligible for a tax credit.

If it were possible to match this with the costs incurred by an area or a local municipality for compensating land owners for conservation areas, and maybe divide up that compensation money among those land owners, then the municipality would be a lot more free to designate lands as environmentally sensitive, not only at the provincial but at the regional and local level of significance, without the fear of a backlash.

If the rest of the citizens in a municipality were to get a line item on their tax bill which showed them how much they were getting for paying for the existence value of wetlands, forests, any kind of significant environmental feature in their area, then it becomes a political issue of, how much are we willing to pay for preserving nature in our municipality?

Mr Galt: If I can just wind up here, you may be interested to know that we have continued the farm tax rebate and we are reimplementing the forest rebate that was taken away a few years ago. You're suggesting that maybe lands around the wetlands be included in a similar tax rebate program.

Mr Murphy: That is correct.

Mr Len Wood: The Conservatives are saying they're broke and they're giving money away.

Mr Galt: No, we're just honouring the—

Mr Murdoch: Just helping this gentleman out. That's exactly what he wants.

Mr Gerretsen: There's no question about it. If somebody can't use their land because it's environmentally sensitive land, then they ought to be compensated for it, and then it becomes a totally political question how much compensation you give. But we also have to keep in mind that those individuals got that land at some point in time when presumably those same environmental conditions existed, so presumably whatever they paid for the land, however they got it, took that into account. You wouldn't pay as much for wetlands as you would for good farm land, for example.

I liked your statement here, though, that "if the public benefits, the public should be willing to pay." I guess what's unfortunate about this whole process is that in the Planning Act we're just dealing with process—X number of days' appeals a year, that sort of thing—and what we should be talking about at the same time is the policy statement itself, and that's really what you're addressing.

It's my understanding that policy statements, generally speaking, don't get discussed by a committee like this, because basically a government, whichever government's in there, just implements it at some point in time, after having done its own consultation behind closed doors with certain groups etc, which is a very unsatisfactory way of getting a public policy. We're just dealing with process here, unfortunately. I wonder what your comments are on that. How do you think the system can be improved?

Mr Murphy: Definitely land owners do rightly feel that with the title to their land comes a bundle of rights. As you alluded, the value of that bundle of rights does take into account the development opportunities of the land at the time they purchased it. What seems to be at issue is the fact that the province, with the 1992 wetlands policy, was in effect changing what the potential promotion opportunities were, whether or not lands of a certain character were possible to redesignate.

By removing the possibility of redesignating them, these land owners felt that they were being unfairly treated when the province was trying to finesse this through by saying, "We're not changing the status of anyone's land; it is true we're limiting your opportunity to change the status," but there was no mechanism for identifying what your potential development rights would have been worth under various scenarios.

Mr Gerretsen: But isn't there also the other notion that if we come up with new environmental protection techniques or knowledge that we didn't have 40 or 50 years ago on how to deal with industry etc, we impose it on industry, or we ought to, to make the environment safer. Why shouldn't we impose that same sort of thing, as greater knowledge comes along etc, on property owners and business owners and anybody else out there?

Mr Murphy: Quite so. I agree that is something that the individual citizen benefits from. The cost of protecting environmental resources across the board is, in a way, an indivisible kind of cost.

Mr Gerretsen: We all benefit from being there.

Mr Murphy: Exactly. The cost of doing it is—you can't divide your cost is greater than mine because I breathe less air. It's an opportunity where we have to take it off the top, if you will, and that's why the province has to be involved. We can't otherwise be able to manage the complex identification of flows of where your fresh water comes from, where your fresh air comes from, where your wilderness areas still remain, over the benefit to society as a whole, even though some economists and ecologists have tried to identify these as proximal values. If you're close to the woodlot, you benefit more than somebody who is 20 miles away.

Mr Gerretsen: I wish we could go on discussing this at some length because the government members could really learn from a good discussion like this, but unfortunately our time is up.

Mr Christopherson: Mr Murphy, I want to thank you very much for your presentation. Unfortunately, the folks who see dollar signs, as you said, "going for the gold," are in the driver's seat on this issue and voices like yours are not carrying the day. However, we will continue to fight for the very arguments you're making.

I was particularly impressed with your comment around, "We have learned first hand it is more effective to preserve existing natural areas than to try to rehabilitate them once they've been degraded and destroyed."

Being from Hamilton with the beautiful natural harbour that we have is a prime example of the billions of dollars it's costing us to clean up the harbour. In that case there's no one to really fault. There wasn't near the understanding of ecosystems that we have now that existed at the turn of the century. The real crime here is that we do know better and we know what can happen if you loosen things up as far as the government's suggesting, and without doubt there will be, if not people in the next few years, certainly future generations that will look back and acknowledge this as a very dark time for the province after having made significant gains in building towards sustainable development.

I remember that great Tory John Crosbie talking about short-term pain for long-term gain, and I think what we're seeing here is short-term gain for long-term pain, because while there may be a generation of immediate dollars, the cost to all of us in terms of our quality of life and then to eventually clean up the damage that's going to be done, particularly in wetlands, will be much greater. Of course, what will happen then is all of us as taxpayers will pay the cleanup, while those who are benefitting right now, individuals and individual corporations, will take the money and run.

I don't recall seeing in here any reference to the change in terms of municipal councils having to be "consistent with" provincial policy, whereas now they're moving to "have regard to."

Mr Murphy: I'm not particularly concerned with that, even though I know others are. I really think that where there's will to protect natural resources, municipalities will follow the spirit as well as the letter, but where there is no will to protect them, no letters of this wording or that wording are going to make them, I'm afraid.

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Mr Christopherson: The government members will suggest to you that what they're doing is giving more flexibility to local councils because they can be more sensitive to immediate decisions that need to be made etc. I ask you straight up: Who do you think has the greater responsibility for the protection of the environment, the local councils or the provincial government?

Mr Murphy: Right now the Minister of Municipal Affairs and Housing has the responsibility for the natural environment in section 2 of the Planning Act, but there's nowhere any regulations or statutes or policies that really show exactly in what way that responsibility will be discharged. It seems to me as though as the responsibilities of the minister are devolved down to the municipal level, there should be with it some explicit—maybe the draft policy statement is the mechanism to do so, in which case it doesn't really go far enough.

There must be a way to identify how this sharing of powers and sharing of responsibilities is actually going to take place, and that's what I allude to when I say that you've got to task them with the responsibility as well as the authority to make these decisions. Otherwise, it will be even harder for local municipalities to protect the natural environment, when they may not have much reason to respect it when faced with the alternatives: even less incentive, less opportunity, fewer things in the tool box than the Minister of Municipal Affairs had when he or she had the statements of provincial interest to fall back on as recommended by food land or Natural Resources.

The Chair: Thank you very much for making your presentation here today. We appreciate your coming.

REGIONAL MUNICIPALITY OF OTTAWA-CARLETON

The Chair: Our next presentation will be from the regional municipality of Ottawa-Carleton, the planning and property department.

Mr Peter Clark: I refuse to make any presentations as long as you've got a guy from the Grey-Bruce area around the table.

Mr Murdoch: I wondered where you were.

Mr Clark: Oh, Billy, try to behave yourself. Could Mr Christopherson take charge of that committee member for me?

Mr Murdoch: We've got one from Bruce now too.

Mr Clark: No kidding? We've got to cut down, because there's not enough to warrant that.

The Chair: Good afternoon.

Mr Clark: Well, it looks like it's a good afternoon. I now have Mr Christopherson—I can personally apologize for being too frivolous last time.

Mr Murdoch: Now he's going to leave.

Mr Christopherson: I was just going to leave.

Mr Clark: He's afraid there's more coming.

Mr Christopherson: I'll stay.

Mr Clark: For the record, bonjour, good afternoon, thank you. It's nice to have an opportunity to talk to you about the region's position on Bill 20. With me this afternoon I have two regional staff members, Andrew Hope from the planning department and Tim Marc from the legal department, both of whom have had a fair amount of responsibility at the staff level with preparing a response that's gone through our committee and council.

We had input from the public and a fair amount of broad input that went to making up our position paper.

Regional council shares the government's commitment to reforming the planning process. Further, regional council supports the province's objectives of streamlining development approvals, providing municipalities with greater autonomy and stimulating economic development. I think the latter is the most important, because frankly one of the major complaints we've had with the planning process is that there are just too many hurdles put in the way, too many barriers put in the way of development. That doesn't mean we compromise on principles; it means we need to get a process that's efficient and responsible.

Regional council's sincerity in this regard can be measured by the very active role staff has been asked to take in all matters relating to reform, both in-house and in conjunction with the provincial staff in these areas. It's with the benefit of this knowledge that regional council commends the province for making the following constructive changes:

Reinstatement of section 3, "shall have regard to" phrase in place of the more onerous "shall be consistent with" linking planning with policy statements. This sort of implied that we weren't going to be very responsible unless we went—and this has been a source of contention. You need to protect the province's legitimate land use policy interests, but I think it also allows for a degree of local autonomy that wasn't present in the previous one.

The introduction of a process to exempt official plans from review and approval by approval authorities, Municipal Affairs and the region itself is important. It's important also because it'll make the process more effective as long as people understand that there is a cascade. There is provincial policy, there is regional interpretation of the regional official plan, and then the local official or secondary plans can flow from that without necessarily Big Brother making sure of the i's and t's. If there is something wrong, I guess we can deal with that on an issue-by-issue basis.

It's important to look at the reduction in processing time lines, particularly now when the province is trying to struggle to come out of some rather difficult years in terms of the economy. The more we can do to make it work, the better off we are; that's my view.

Introduction of transitional provisions that allow old planning applications to be disposed of under the former prevailing process and policy environment is also important because you know, you changed the rules in mid-stream and you should have some kind of grandfathering or transition to deal with it.

We think those changes were all constructive, but we do think you can improve on the bill. We've warned you up; now we've got to tell you some things we think you should look at. There are three principal ones, and that's the focus of what we're going to talk about today.

The first one involves the proposal for direct municipal board appeals. Regional council is troubled by two fundamental issues associated with direct OMB appeals, be they for official plans or official plan amendments or subdivisions or whatever, because without an ability to dismiss frivolous OMB referral requests locally and with the traditional OMB habit or interest in saying, "We'll give everybody a day in court"—that's why we're into two-year waits to get to the OMB, for starters, and you can look at what that does to anybody's plans if they've borrowed the money to get the plans rolling.

Anybody—and there are a whole pile of people there who like process—could challenge anything and then the estimates are that you would get as much as 50% of all applications being challenged by some competitor's employee's mother-in-law just to keep the competitor off the map for a while, for no particular reason. By the time you get it on OMB schedule—John, you know what those are like—it's a long time. It's just a concern. I think

we've got to retain that ability to deal with these things locally. Some people think it would even be higher than 50%, and I'm not going to even put a number on it. All I know is that it creates a problem we don't need to have.

Finally, direct OMB appeals remove the ability to resolve disputes locally. Sometimes you compromise and if individual A just wants to come and be heard—and we've got some who are there at every planning committee meeting, talking about everything we do, who don't have anything real to do, but they're there—when you get into this, these people will of course want to have this other opportunity at great expense both to the province through funding the OMB and to ourselves through having to defend ourselves against these things. It's really important that you recognize that once the OMB has received the appeal, it's up to the OMB to resolve all open issues and it really just throws all of the fine objectives of streamlining the process into a cocked hat.

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A second important area concerns the notion of a complete application. If somebody just tosses a single page of paper for, for argument's sake, a major development application—no details, no real fundamental work being done on it—right now, if you don't act on it within a certain period of time, they can ask to have it forwarded to the OMB because of lack of effective response on the part of the municipality. I've even used it, but that's not the issue.

I think it's there to protect the individual from excess bureaucratic zeal on the part of the municipality, and that's a legitimate piece of action. On the other hand, if somebody doesn't give you the information on which you can base a decision, should that be—as long as you get back to him fairly quickly and say, "Look, your application's incomplete for these reasons." Is that sort of the notion?

Mr Tim Marc: Yes.

Mr Clark: If I'm wrong, Tim, just elbow me. If you do elbow me, it's a career-limiting move.

But you've got to understand that if somebody hands you something that's incomplete or poorly done or hasn't considered everything and you tell them right away, "Your application is incomplete. We need this information," the ball's in their court. The clock isn't still running over here. It wasn't lost in the Planning Act reform discussions but it was reduced only to the most basic information in the belief that applicants will act out of self-interest. Well, I agree they'll act out of the self-interest, unfortunately not the way you think, and I suspect you need to tidy that up.

The final area is the exemption process for official plans and amendments. I guess council views this proposal as similar in concept to the very successful experience with undisputed official plan amendment approvals under the Planning Act of 1983. I think that was a good thing. However, under the old act I could delegate that to a senior staff member and never had to go through a four-week wait or six-week wait to get to council. I'd like to still have that ability.

Basically we believe that it would be better implemented by amending section 17 in the new bill to allow determination of official plan exemption status to be

delegated to a committee of the approval authority council or staff, the rationale being, why clutter our legislative agenda if there's no dispute?

We question how direct OMB appeals will deliver on the need for streamlined development approvals if the approvals process can be frustrated more readily than at any other time in the province. I hope I haven't overflogged that, but I'm going to flog it again before I'm done this presentation. I think that's a serious one. But there is definitely the cost dimension as well for OMB appeals, you can't ignore that. Your cost, our cost, Ontario's cost.

Since being delegated the approval authority for all these things, regional councils have witnessed a dispute rate of approximately 3%. In other words, 97% of them are resolved without having to go to OMB and without having to have Big Brother in Toronto overlooking them. Most of these things are—we put conditions down, they don't like the conditions, usually they get resolved. To put it into context, it should be pointed out, as I say, staff resolve them. Very few of them get even to the political level to be resolved.

Regional council maintains that the referrals system has worked well to save both the applicant and the municipality considerable time, effort and expense, so we don't think you need to change that.

Regional council believes the province can and should do better. While the concept of a complete application under Bill 163 is confusing because of the distinction between prescribed and required information, Bill 20 offers an alternative that in and of itself could result in more disputes, and that's not what you're about I'm sure. Because municipalities would be forced to refuse applications owing to lack of sufficient information rather than put it back in the hands of the applicant to get the information completed.

In the interest of streamlining approvals and providing greater autonomy, we recommend that we should be empowered to amend official plans to specify what information is necessary and then follow our own rules after that. That would still give oversight at Municipal Affairs. That would be the kind of thing I'd see as sensible. You'd have your oversight, you'd agree that what we're asking for is reasonable, and after that the process flows.

There are a number of other points in the paper which we've sent to you, and I'm not going to try to cover them all. In conclusion, we support Bill 20. We believe it provides greater autonomy, we believe it provides faster process, but we believe that you need to reinstate the referral process for subdivisions and official plans; no random OMB direct access. We believe that you should allow the official plans to specify the information requirements for a complete application and we believe that you should allow us to delegate the authority for undisputed plans downward in our organizations and even to our lower tiers.

I thank you for your time. Merci beaucoup. Cela me fait encore un grand plaisir d'être ici. J'ai un ami et voisin, Jean-Marc Lalonde, l'ancien maire de Rockland. I thank him all I know, but it was tough.

Mr Gerretsen: The first thing I want to do is to assure your sidekicks Tim and Andrew that I will not be asking them how the Palladium got to be zoned the way it was.

Mr Clark: We tried to move it to Kingston, but they had the battle here.

Mr Gerretsen: Because Sean isn't here and we found out that because Firestone owned it he got what he wanted. Anyway, having said that—

Mr Baird: Firestone's got ties to the NDP.

Mr Clark: Whoa. I don't think you can say that.

Mr Gerretsen: That was said by somebody. I can't remember who.

Anyway, you don't want direct appeals to the OMB, and I agree with respect to the frivolous objections. How would you resolve the frivolous objections? Would that be a regional council decision whether or not an objection—

Mr Clark: Yes.

Mr Gerretsen: Okay. But where are the appearances of fairness? Since regional council has approved the situation, how can they also adjudicate whether something is frivolous or not?

Mr Clark: Generally they both arrive at the same time. They're not approved before the objection's lodged. There's no approval and then somebody objects. Usually the committee deals with this, council has yet to approve it, the objector's objection and the report rise to council with the recommendation of staff as to whether or not the matter should be referred.

Mr Gerretsen: Well, I suggest that the OMB be instructed to use this section a lot more than it has in the past, which I think is a fairer way to deal with it. I think somewhere along the line you need an independent final voice or person that's outside the community that will adjudicate this. But I guess we'll just have a difference of opinion on that. Certainly they haven't used it enough.

Mr Clark: It won't be our last one.

Mr Len Wood: Thank you for a good presentation, a lengthy presentation. You're saying that you support most of Bill 20.

Mr Clark: Yes.

Mr Len Wood: We're all aware of the campaign promises that were made during the election that we're going to reduce the amount of funding that is going to go on conditional grants, unconditional grants.

Mr Clark: Absolutely. It's been a disastrous cut. That damned Ernie has taken so much money away I hardly could afford to come today. There is a hardship in some of the communities as a result of this and they're trying to find different ways of funding. We know that Minister Leach is saying, "When the environmental issues come up, economic development is maybe more important." He made a presentation to the bar association; I don't know his exact wording but something to that effect.

Mr Len Wood: Is that not one of your concerns, that the municipalities might be trying to find ways of raising fast money—in Bill 20 and not too much concern for wetlands, the environment?

Mr Clark: No. I guess I could take exception to being accused of looking for fast money. If I wanted fast money, I wouldn't be in this particular room.

Mr Len Wood: I'm not saying you, but I'm saying some municipalities might.

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Mr Clark: I just think, do we need, in order to protect the environmental side of this region, a process that was envisioned in Bill 163? I think not. Are we going to be environmentally responsible? Andrew, you've dealt with our council and our general philosophy. Why don't you talk about how we care about the environment?

Mr Andrew Hope: Certainly, there's nothing in Bill 20 which would prejudice our activities in terms of protecting the environment. Those matters relate more to the draft provincial policy statements which the province's requesting comment on at this point in time.

In terms of regional council, we've been very proactive in protecting the environment, at least we believe we have, and we have policies which certainly at this point in time, if the proposed draft policy statements were approved by provincial cabinet, would exceed the requirements of provincial policies in some very important areas.

So on balance we think that we've moved aggressively to protect agricultural lands. We certainly have had a difficult time wrestling with the wetlands policies, but nevertheless we have been proactively considering those and other areas of environmental significance.

The Chair: Mr Murdoch.

Mr Clark: Can't you ask somebody else?

The Chair: I just respond to the hands that go up.

Mr Murdoch: I was trying to be nice and say that we're really pleased to be here in this fine area and pleased to hear from you, and your report. I was even going to say that hopefully we can help you out on some of your suggestions. We want to work with you, but I have to straighten something out, though. You did say Grey-Bruce. We do have a member from Bruce who sits beside me, Barb Fisher.

Mr Clark: She informed me, but still, when I taught up at a high school, which I understand they're bulldozing now, Grey Highlands—

Mr Murdoch: No, they're not.

Mr Clark: It was brand-new at the time.

Mr Murdoch: No, no. Grey Highlands we're keeping.

Mr Clark: I heard it was going.

Mr Murdoch: It's the OSCVI.

Mr Clark: I taught at OSCVI too. It was a long time ago, Bill. Now that you've corrected me, have you any substantive questions?

Mr Murdoch: It's always nice to be able to correct you. That's a pretty tough thing to do.

Mr Clark: Well, I stand corrected.

Mr Murdoch: That's all I needed on the record. I'm happy.

Mrs Fisher: I am the member for Bruce, originally from Ottawa. So please, it is okay to be just from Bruce.

I have a question as it relates to the appeal process on minor variances.

Mr Clark: That's usually committee of adjustment stuff, you mean.

Mrs Fisher: With regard to that, would you see any merit in appointing a committee of adjustment that does not have elected officials on it so that the next line of appeal could be the council?

Mr Clark: We already have those.

Mrs Fisher: I'm talking about province-wide now. We're here representing everybody and we're wondering whether that would be a good policy or not.

Mr Clark: There were no elected officials on the committee of adjustment in Cumberland, and I don't believe there are any in the city of Ottawa. Andrew, do you know anything about that, or Tim?

Mr Hope: In the position paper you have before you today, the position we took was that the provisions of Bill 20 were acceptable. However, we want to point out that at the regional municipality of Ottawa-Carleton we don't deal with minor variances. That's a lower-tier responsibility.

Mr Clark: Aside from that.

Mr Murdoch: He didn't like your answer.

Mr Clark: No, the answer's fine, but the fact of the matter is that—

Mrs Fisher: I'm asking for a reason. I'm not asking to be silly. It's just that it has been an issue.

Mr Clark: The policy is generally not to have elected officials on committees of adjustment and the policy has worked well. So are they necessary on a committee of adjustment? No. Do committee-of-adjustment things get appealed periodically to council? Yes.

The Chair: Thank you, Mr Clark, and your associates. I appreciate your taking the time to make your presentation before us here today.

Mr Clark: It is always fun.

PETER BURNS
DON KENNEDY

The Chair: Our next presentation will be from Messrs Peter Burns and Don Kennedy. Good afternoon.

Mr Peter Burns: That is a tough act to follow, and I never have the nerve to try and correct something that Peter pronounced.

Mr Clark: I want to stay here and listen because I'm a little bit worried about what you might say.

Mr Burns: Thank you for inviting me. I'm Peter Burns. I'm drawing on my experience from CMHC days, a city of Ottawa director, and serving on several provincial boards over the years. I'm now in the home building and land development business as senior vice-president of Urbandale Corp. I'm not a planner, so don't expect technical comments. That's why I brought someone with me.

But I do know that being expected to work with the complexity of a massive Bill 163 certainly wasn't fair to the average municipal planner. We still see the bill done up in the shipping paper. For people in the development business or even for the average citizen trying to respond to some zoning matter, the feeling is that the Sewell commission came up with a number of very good features, many good ideas, but certainly it was typical of the ideology of the previous government, in not trusting anyone to implement, to give discretion in implementation.

You've seen the thickness of it. It would be nice to think we could get back something like this half-inch, which was the Planning Act of 1983. Times have changed. Probably that's not enough, but there's hopefully something in between. Our feeling is that this bill is striking that kind of balance.

Don is a professional registered planner and has worked at the municipal and provincial level, is a large home builder in Ottawa and is now a planning consultant whom we, among others, use. He will deal with some of the technical questions and is in a better position than I am to answer questions.

I must say that after many appearances before select committees, starting in 1975, and opposing the progressively regressive rent control legislation, I find it a pleasant change to be here supporting a government bill. The feeling is that it's understandable and presents sensible planning legislation in Ontario. I would hope that maybe my next appearance before a select committee would be for a simpler and less intrusive rent control bill, but we'll see about that. We own about 2,500 rental units, so I can declare interest in that remark.

One hope is that the legislation will curtail a rapidly growing, expanding environmental assessment industry. Certainly, an EA is needed at the initial stage to select a corridor or the equivalent of that, but not again and again at various later stages when few route options still remain.

The repeal of the right to create apartments in housing should be welcomed by the average homeowner. He made his largest purchase in his life and believed that single-family zoning meant that, and the permission of the apartment certainly pulled that rug out from under him.

Reducing the various time limits is welcome, as well as eliminating some of the additional steps of public consultation. There is consultation certainly at the official plan stage, and it shouldn't be necessary to do it time and time again as you focus down into the final subdivision.

You will shortly be receiving a presentation by the city of Gloucester. The charts, which compare Bill 20 to Bill 163 were prepared by staff at the region, may be left with you, but were expanded on by Gloucester staff and I feel they were very well done. I am very comfortable with almost all of their recommendations. They're getting into the kind of detail that certainly I'm not, and will not attempt to do.

I turn this over now to Don for his part of the presentation. Thank you.

1430

Mr Don Kennedy: Mr Chair and members of the committee, I would like to briefly read through a document left with you, make a few editorial comments and specific reference on it as I go, and then certainly any questions.

I'm sure that in the last few days, and certainly today alone, you've heard many different viewpoints, both in support of and perhaps from detractors, with regard to Bill 20. I'm pleased to be here with Mr Burns to give my views. They do come from a wide range of experience over the years, both in the province and out of the province, as a government employee, a consultant and representative of a home builder.

Having said that, we really don't represent a specific interest group today, but I think it's really important to remember that builders and developers in any area, and particularly here in Ottawa, always try to develop communities that their residents are happy to live in. Really their objective is that when their resident decides to move

on, he'll move on to a bigger house in their project or perhaps downsize to their project. So the industry, notwithstanding the need to have regulation, is very much conscious of its homeowners in providing an ideal community to live in. I think we have to remember that, because especially in this competitive marketplace you don't want to create a situation where your residents are not sure where they want to go next.

I view the proposed changes to Bill 163 as constructive and positive. Parties who are opposed to the bill should realize that Bill 163 had much opposition in itself. Bill 20 returns us to an understandable and well-defined planning process.

There are many areas of the legislation that I'd characterize as grey areas for which further work or legislation may be required. It's not intended as a criticism, because changes and amendments reflect the dynamics of the land use planning process. The art of developing communities is a science, and as such, enabling legislation will be required on a regular basis to ensure that we have the tools to provide for quality living without extraordinary regulatory interference.

As an example of these last statements, the province produced, with the planning reform logo that went with Bill 163, a document called Making Choices. It's a synopsis of a lot of different standards in a lot of different parts of the province and is truly an excellent document as a guide to looking at alternatives for developing residential communities. I think even with that planning reform logo that was associated with Bill 163 there are a lot of good things remaining, but some of the grey areas perhaps could be looked at and reviewed.

Part of the grey area to me is that the policy statements are only a draft at this point in time. I've reviewed them. They seem to be working fairly well, and I think when the final guidelines come out that will be very helpful. But what I've read does tend to tell me that the new provincial policies are putting people and the communities they live in back on the priority list for urban and municipal planners.

There are a couple of specific grey areas to refer to, and Mr Clark was talking about exemption provisions. I'm not totally sure I understand it but I do see that unless there's a very clear definition of what can be and what cannot be exempted and who decides—subsection 17(11) of the bill says it may be subject to conditions. What are the conditions going to be, who is going to pick them and what happens if the lower-tier municipality is in opposition to what the upper tier wants to do? So that's an area that I think needs to be firmed up a bit.

Section 8. Prescribed information in my view, relative to making an application, is very important. I think it would be helpful perhaps in the guidelines to clearly state what the prescribed information is.

There are a couple of things in Bill 20 that actually bother me, in spite of my strong support for it.

Subsection 24(2) empowers municipalities to take additional lands for public purposes, such as for transit requirements. Mr Murphy, for example, was talking about acquiring wetlands and the cost assignable for general public good. I think this is really a parallel situation. If you're going to build a Transitway and then take the land for something in the general public good, I think that has

to be looked at very seriously. I would throw in that subsection 42(5) of Bill 163 still exists, and it bothers me that if a municipality takes parkland, they can still turn around and sell it for some other purpose. I get concerned about that kind of thing, the taking of the land for some purpose that's not clearly defined.

Notice provisions, subsection 29(11), are a good step towards streamlining. However, there doesn't seem to be any restriction as yet to what happens if a government agency, for example, does not respond to a municipal circulation. I'd like to see a situation where if you're given 30 days to respond and you don't, it's interpreted that you have no objection.

I think section 24 of the bill is a positive step to cleaning up some of these ideas, and if the Ministry of Municipal Affairs and Housing has a mandate to play a role to play, that would be very helpful.

It's my view that 90 days to approval for official plans or official plan amendments, 60 days for subdivisions to draft plan approval and zoning amendments, same time frame, is not an unreasonable time frame. As mentioned by a number of speakers, cleaning up the time frames and tying them down is a very positive thing in Bill 20.

If all steps in the process are clearly defined so that if somebody doesn't respond, it doesn't matter whether it's zoning, severance, minor variance, official plan, it could go.

The repeal of the extra response time to government departments on zoning should be extended as a principle to all aspects of the process, but certainly the step of repealing under subsection 20(6) of the bill, I think is a very positive step.

Bill 20 is proposed as a positive step towards putting people and the communities they live in at the top of the priority list for urban planners. Streamlining the planning process by providing a focus for submissions, reducing processing time and setting attainable goals will contribute to this end.

Mr Len Wood: In your final comment, you say "putting people and the communities they live in at the top of the priority list." We've heard presentations so far today that concerned citizens out there, volunteer groups, who might have the most experience in the community—maybe even more experience than the elected municipal councillors might have because they might have been living there longer—need time to be able to find out what's going on and talk to their various members to be able to make presentations.

They're saying that when you squeeze it down to a time frame that's too short, it's only going to assist the developers and the municipal leaders, and the general public is going to be left out in the cold. I wonder if you have a comment on that. How do you deal with the general population out there?

Mr Kennedy: One of the interesting things about notice provision is that the extra time—if the Ministry of Natural Resources writes a letter to the region pursuant to Bill 163 and says, "We need another 20 days," really what that happens in all steps of the process is that the official plan and the zoning have public notice. Municipalities, generally speaking, advertise their agendas. They're in the paper, both local and sometimes regional.

In the regional municipality, all the agenda items are listed. In actual fact, there's a lot of notice, although not a statutory requirement. So that provision is there for people to get involved.

The other thing we have to have some confidence in is that one thing is that the draft guidelines for Bill 20—this I think will help us when I refer to the grey areas—when they come out and we all understand them will not let a municipality of any level charge off into an area of prime agricultural land, for example, unless there's a dramatic demonstrated need. I think there are a lot of safeguards there, both in terms of notice and in the guidelines.

Mr Len Wood: You mentioned that you're a landlord and own 2,500 apartments. How many apartment units will you be building with the passage of Bill 20 at a reasonable rent for the people out there now who don't have a roof over their heads?

Mr Burns: It's not Bill 20 that's worrying me, it's rent control legislation.

Mr Len Wood: Well, you can lower the rent to a reasonable rate any time you want.

Mr Burns: But you still need a return to bring the buildings up to where they should be. Ontario's housing stock is aging. Not much has happened since 1975 when rent control came in. There's that catch-up, and then the seed money to do new projects. We still have to come to grips with the cost of construction and the level of the regional and municipal development charges; there's a whole lot. I think it's going to happen, but it's going to take more than one particular bill and it's going to take a better climate than we're seeing right now in Ottawa.

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Mr Baird: Thank you both for your presentation this afternoon. I'd like to ask Mr Burns a question with respect to your operations. Obviously, one of the biggest things we're trying to achieve in this legislation is a balance of the planning process and the environment and economic growth. What sort of effect—recognizing, firstly, that no one action of the government is going to see your business ignite overnight—even in relative terms, would this initiative have on your plans for economic development and economic growth over the next few years?

Mr Burns: None of us, or very few of us have had much experience with the present legislation. As I say, we've seen in some municipalities it's still in the shrink wrapping; they haven't gotten into it. It's difficult. It's hard to understand. If you don't understand it, you worry where the trip points are. If you know your path, at least you go down there with some certainty. That's certainly part of investment, knowing your pitfalls and how to overcome them and reach that goal. Simplified legislation is always part of it. I presume your question is apart from rent control and producing more rentals.

Mr Baird: Yes, it's specifically related to Bill 20. If we're streamlining the process and creating that balance in this legislation, if it's a longer and more drawn out affair in terms of the planning process, what sort of effect does that have on the price of a single family home that your company would build?

Mr Burns: Well, you're into carrying costs.

Mr Baird: For the consumer, though?

Mr Burns: Carrying costs, everything gets built into the end price, obviously. If you buy land at a price that's ready for development and then find you can't move quickly and your bank charges are accumulating, it's not long before you've doubled your investment and you haven't even gotten going.

Mr Lalonde: I appreciate your presentation, but definitely we could have quite a few discussions on rent control because I'm definitely opposed to the withdrawal of rent control, but anyway we are not here to discuss that at the present time.

Mr Burns: I didn't say withdrawal, I said tempering it. I don't think it's going to go away overnight, I don't think politically it can, but I hope there'd be some road to the future stated.

Mr Lalonde: I noticed immediately after you said you would like to discuss that, that you're also controlling 2,500 units. I could understand why you would like some modification in there.

You seem to be in favour of the time frame of the reduction from 90 to 60 days for the approval. I believe that most of your development occurs in the Ottawa-Carleton region. My concern is that anything that could be done as fast as possible is good, as long as the people or the community have been involved and have been informed of the proposal, but in smaller municipalities outside the Ottawa region, I don't know if we have the resources in place to meet those requirements.

Probably within this Bill 20 there should be a clause in there for smaller municipalities that have their own planning people. Municipalities that don't have the planning department could turn around and hire consultants to do it, but many municipalities do have one single planner to look after the planning. That is where I'm really concerned at the present time.

You said you're against the fact that subsection 24(2) will empower a municipality to take additional land for public purposes such as transit. Who do you think should be paying for that?

Mr Kennedy: I think, sir, that a transit way facility to me is the same as a major community park facility, something that serves the common good. If it's required for a regional transit system or a regional park system, there are a number of ways to raise that money. First and foremost, of course, the general revenues, because it is a facility to be used by the whole municipality. Secondly, every development should pay its share. Consequently, if a transit alignment happens to be through a major community like Barrhaven here in Ottawa-Carleton, for example, it's a very narrow focus in terms of where it's going through. Does the guy who's the next concession over in the same community escape scot-free? That's what bothers me. It's for the whole area and as such they should pay their share.

The Chair: Thank you both very much for taking the time to make a presentation before us here today. I appreciate you coming.

CITY OF GLOUCESTER

The Chair: Our next presentation will be from the city of Gloucester. Good afternoon. At the risk of repeating myself for about the 80th time so far, we have 20

minutes for you to use as you see fit, divided between presentation and question-and-answer time.

Ms Ann Tremblay: My name is Ann Tremblay and I'm a policy and environment planner with the city of Gloucester. With me today is Mr Grant Lindsay, who is the director of current planning, also with the city. For those of you who are not familiar with this region, the city of Gloucester is located immediately east and to the south of the city of Ottawa, and the population of the city of Gloucester is approximately 105,000.

To begin, I'd like to mention that the city is generally supportive of Bill 20. Overall, the city believes that the bill will benefit lower-tier municipalities by providing greater autonomy and flexibility.

The purpose of my presentation today is to do three things: outline the elements of the bill the city supports; outline some of the concerns the city has regarding the bill; make recommendations about how the bill might be modified to the city's satisfaction.

Elements which the city supports relate to the following:

First, the provincial policy conformity: The bill proposes to reinstate the "shall have regard to" wording that existed under the 1983 version of the Planning Act. Given that this amendment will effectively restore flexibility to municipalities in addressing matters of provincial interest, this city strongly supports this amendment.

The second relates to the repeal of apartments-in-houses legislation, Bill 120. Bill 20 effectively repeals almost all of the provisions which were introduced as part of the Residents' Rights Act in July 1994. This has allowed municipal official plans and zoning provisions to effectively be re-enacted, and the city supports this modification in favour of a return to planning provisions adopted as a result of a comprehensive housing review which was undertaken by the municipality in 1992.

The third element that the city strongly supports relates to the exemption model, and I know you've heard quite a bit about this already this afternoon. Bill 20 provides the ability for the minister or an approval authority to exempt proposed plans and/or official plan amendments. The province's intent in introducing this model appears to be to provide to approval authorities the ability to classify given types of plans or amendments which are relatively straightforward and perhaps minor in nature as approvable by local municipal councils, and the city supports this initiative.

The manner in which the exemptions might be defined is, however, of some concern to the municipality. The region of Ottawa-Carleton has outlined as part of its submission on Bill 20 two proposed modifications.

The first, as you've heard from the regional chair, Peter Clark, is to delegate the authority to determine exemptions to be given to a committee of regional council or to staff.

The second provision is to allow exemptions to be determined on a case-by-case basis, and that actually forms part of their written submission.

The committee should note that while the city supports the former proposal, which is to delegate to staff or to a committee of council, the city is opposed to the notion of

allowing exemptions to be made on a selective basis. Rather, the province should maintain the intent for classifications of exemptions to be identified.

On a related matter, the city believes that Bill 20 should be further amended to require that lower-tier municipalities also adopt official plans. The city's position is that since official plans provide policy frameworks to guide development decisions, both at the upper-tier and the lower-tier levels, the province could be assured that local municipalities were recognizing and addressing matters of provincial interest. This could additionally facilitate the further delegation of approval to lower tiers when appropriate.

Areas of concern include the following:

Official plan processing time frame: The new act proposes to significantly shorten official plan and amendment review processes. The city's concerns relate specifically to the radically reduced time frames for official plan amendments.

Given the introduction of the exemption model, the city's position is that perhaps different processing time frames should be contemplated for non-exempt and exempt amendments. For exempt amendments, the time frame proposed by Bill 20 would seem to be reasonable. For non-exempt official plan amendments, however, and official plans, the time frame might be somewhat impractical and might in fact be unworkable. Official plans and comprehensive amendments are by their very nature detailed and complex in nature. It is unlikely that adequate consultation and fine-tuning could be accomplished within a 90-day time frame. So given that, the streamline time frames introduced by Bill 163 might be more reasonable when considering official plans and comprehensive or non-exempt amendments.

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A second element of concern relates to—again, you've heard this already—the referral process. Bill 20 proposes to eliminate the current referral process in favour of direct appeals to the Ontario Municipal Board. The effect of eliminating the referral process is to do the following: (1) remove the ability to screen appeals on the basis of a basic set of criteria; (2) increase the volume of appeals to the Ontario Municipal Board which will thereby only serve to further frustrate and delay the hearings which have bona fide planning issues to resolve; (3) the elimination of the referral process will further remove from approval authorities the opportunity to resolve disputes. This again is something that Chair Clark had spoken about. This will undoubtedly lead to the need for more formal forms of mediation and thereby increase the costs associated with development.

Given the potential for these negative implications, the city recommends that the bill be revised to reinstate the referral process.

The third element of concern is the restructuring of committee of adjustment provisions. Bill 20 proposes to introduce a functional distinction between committees of adjustment which are composed either entirely or in part of members of council from those which are composed entirely of members from the public.

In short, the city believes that the nature of the proposed modifications and the effective restrictions placed

on appeals to the Ontario Municipal Board, compromises the integrity of this planning and development process. The city therefore strongly recommends that section 45 of the existing Planning Act be reinstated. Just for your reference, the city of Gloucester has a committee of adjustment which is completely comprised of volunteers from the community.

The fourth element relates to the prematurity test. Bill 20 proposes to eliminate the consideration of service availability as a useful criterion for dismissing Ontario Municipal Board appeals. The city urges the province to recognize that the prematurity test has the advantage of ensuring that proposals with the greatest servicing potential are considered ahead of those which are less feasible. This has significant streamlining value in itself and the province should accordingly reinstate the appropriate provisions.

There are three minor concerns. The first relates to subdivision approval time frames. Bill 20 proposes to shorten the time frame from 180 to 90 days. The city believes that the 90-day time frame is overly ambitious and would recommend an extended time frame to 120 days.

The last two minor concerns are in fact not introduced by the bill as modifications, but rather are introduced as proposed modifications by the region in their submission, and they are the following:

The Region of Ottawa-Carleton has requested within its submission that section 36 pertaining to holding bylaws be amended to allow upper-tier municipalities the right to appeal the lifting of an H designation. The city strongly opposes this request since the flexibility would allow for the region a second opportunity to appeal the same zoning amendment. The province is therefore urged not to amend section 36 as proposed.

The last item is not really so much of a concern as we would actually like to see some wording added. The region has again requested that Bill 20 be modified to recognize deferrals as a legitimate decision option. The city agrees with the intent of this proposal but would prefer that the wording established be tied to a commitment to reconsider the issue at a future specified date.

In conclusion, the city supports the intent of Bill 20 because it restores to municipalities the right to make fundamental planning decisions and provides for the further delegation of approval authority to lower tiers.

Mr Chairman and members of the committee, we thank you for your time and attention to the city's comments.

Mr Smith: Thank you very much. Certainly your comments on the streamlining process and the shortened time frames are interesting. Can you tell me, under the current provisions of Bill 163, are you achieving the anticipated time frames and targets that you feel are necessary to adequately evaluate a planning application?

Mr Grant Lindsay: Yes, we are meeting the targets with respect to Bill 163 for most applications. We have had one or two occasions where, due to the complexity and the change of certain requirements by the applicant that we've not met the provisions, but for the most part, 90% of them, we are meeting the time frames.

Mr Smith: Could you perhaps just elaborate quickly on the region's proposal with respect to the removal of

holding provision and the concerns that you have specifically as a city?

Mr Lindsay: I'd be happy to. The regional municipality has expressed a concern, and I believe it's contained in their brief, that they are concerned that with holding provisions in a holding bylaw, that certain obligations will be made and they will not be consulted when the holding provisions are lifted. Generally, this is involving an issue of servicing such that when services are scheduled to go in, the region needs to confirm that they are indeed there in place or will be in place at a logical time in order for the holding provision to be lifted.

The city's concern is that we feel we adequately consult with the upper-tier government any time a holding zoning bylaw has come forth and we feel that if the region does have concerns with respect to these provisions, they have their opportunity when the bylaw is initially going through the process to take the appropriate remedy. We feel that wanting a second opportunity to possibly refer this matter to the municipal board is a source of delay, especially when the development community usually relies on a resolution passed by local council to lift the holding provisions and they generally want it quickly in order to respond to their needs.

Mr Hardeman: I'd just like to quickly go to the issue of the official plan and the approving authority and the exemption there. You've put forward in the application that the exemption may be put in place or should be put in place based on individual official plan amendments. If the upper tier is the approval authority and you did it on a case-by-case basis, what would be the difference between the individual exemption and the individual approval? If you had to go to the upper tier for an exemption each time, would that not be the same as going with that same official plan amendment to the upper tier for approval each time? How would that save time in the process?

Ms Tremblay: In our submission, we've requested in fact the classifications of amendments be identified for exemption so that we don't have to go back on a case-by-case basis. That way, we can allow our local municipal council to deal with minor or straightforward amendments, such as site-specific redesignations, those kinds of things, that they could go hand in hand with the rezoning amendments. So we're not looking for case by case.

Mr Gerretsen: I find there's some inconsistency in not only your presentation but some of the other presentations that we've heard from time to time. I come at this from having served both on a municipality, acted for developers, acted for ratepayer groups etc over the years. I've sort of looked at it from all views and I think the system ought to be fair. The general impression seems to be left that the development community and the municipalities are coming in and basically saying, "We like the new time lines, but not if they apply to us, because you know, you're asking us to react too quickly to it. So sure, the general public only needs 20 days, but we need 120 instead of 60 days," or what have you.

I'm just wondering, is there not some inconsistency there when from a practical viewpoint I can tell you it's been my experience over the last 25 years that the time periods really don't mean anything at all. It is the quick-

ness with which planning staff, councils, government departments etc, the bureaucracy in general can react to all of this planning that's going on and all the objections etc that take a much longer period of time than even the time frame works that we're talking about here. In most municipalities, it takes anywhere from a year to two years to get a rezoning through etc. Why should we lengthen your time but not the general public's time?

Mr Lindsay: The initiatives brought forth by Bill 163 and to a great extent continues with Bill 20 is that when we have a development application proposal that's submitted to an area municipality, my staff and my planners are encouraged to preconsult before a formal application is submitted. This enables a determination of what issues will be identified, such that perhaps some of these can be resolved before an application is submitted or at least clarify when an application is submitted.

The time frames that are spoken of, yes, once the legislative clock starts ticking, we feel that at the municipal level in any event we have to allow enough time to allow for due public discussion in an open public forum as required under the act. The time frame that is suggested by Bill 20 we believe is too ambitious. We feel that there is some compromise in Bill 163 and we took the middle-of-the-road approach, I guess, as most planners try and do.

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We feel this can accomplish representing the public interests and making a decision, but I believe the key to the planning process here in this province is going to be encouraging preconsultation before applications are submitted, because that is when you can get down and really deal with some of the basic issues in order that once the clock starts ticking you can have a smooth process.

I mention 120 days. In the city of Gloucester, we process zoning bylaw amendments in just over two months. We process official plan amendments in just over three months. It's because we rely on the preconsultation process.

Mr Gerretsen: I totally agree with the preconsultation process, absolutely.

Mr Hoy: Last night, I overheard one of the government members say that perhaps the issue of secondary apartments had been around since the Stone Age. I think it was prompted by something he had seen from his seat that night. Could you envision that there may be cases in Ontario where discriminatory factors are entering into decision-making and where there might be a moral obligation for the province to step in and allow for overseeing a decision made in regard to basement apartments? I don't have much time, but do you have any view on that where the province may have to step in to do what's morally correct—and I believe if it's morally correct, it's politically correct.

Ms Tremblay: I think the province would take into consideration the efforts that some municipalities might have already undertaken to do in order to identify when it's appropriate, and in the municipality's case that's exactly what happened. We had undergone a very extensive comprehensive housing review in which we identified very specifically zones that we wanted to see

them in, and this was with quite a bit of consultation with the communities, so we already had in place the provisions and the enabling policies for that and granny suites and the whole range of housing issues that were on the table at the time.

Mr Hoy: I wasn't critical of your action.

Mr Christopherson: Thank you for your presentation. Certainly, you've done a lot of work. It's very impressive, the time you've put into this. I looked for the words; I couldn't find them printed here. I assume from your presentation you did say that you were entirely comfortable with moving from "consistent with" to "have regard to." Is that correct?

Ms Tremblay: That's correct.

Mr Christopherson: I understand you're an environmental as well as urban planner. Correct?

Ms Tremblay: That's right.

Mr Christopherson: I can appreciate that from where you sit, knowing probably of your own concern for the environment, and perhaps your own colleagues and even the nature of the politics that are on your council, you may feel comfortable that your community will make the right decision when these sorts of things come up.

But are you not concerned, as someone who obviously has a great deal of experience in this area, and therefore you wouldn't limit your concern as a citizen and as a professional to just the boundaries of your community, whenever we would see a particular council not follow what would be considered true environmentally sound practices, and lose the only check on those kinds of decisions by effectively moving to words and policies that give the province no teeth whatsoever?

Does it not concern you in some way that there may be other communities in this province that will not be held to the same standard that you hold yourself to, and do you not think there's an obligation on the part of the senior level of government, meaning the province, to ensure that those protections are in place?

Ms Tremblay: I think what you're getting into or encroaching on to is in fact a discussion about the policy statement itself. We in fact took that forward to our planning committee just last night and the natural environment policies were an area of concern to staff. We discussed it with the committee at the time. What we would prefer to see is the framework within the policy statement itself, which allows for the continuation of an eco-based development and land use planning approach, rather than to be caught up with the wording that would be in the legislation that would tie you to particular things within those statements. I guess the idea, just to conclude, is to allow the municipalities some flexibility in how they're going to do those things but give them the framework that the province feels is necessary.

Mr Christopherson: That's fine as far as it goes, in our opinion. When you've got language and legislation that says you'll "have regard to," there are an awful lot of people who believe that, in effect, is nothing. You could have the strongest language possible in the policy, but if the legislation doesn't tie the municipalities to adhere to it, in effect you might as well not have the policy, because as one group said earlier, it's like allowing people to look and read a speed sign on the side of the road and then continue to drive as fast as they want.

Mr Lindsay: I think the difficulty—and I think this is the crux of the issue—is trying to achieve a balance between planning concerns, environmental concerns and economic development concerns. Yes, it certainly would make planners' jobs easier across the province if we had clearly defined and clearly labelled provincial statements that clearly defined what can and cannot occur from a development perspective, but as we've heard in previous submissions, that does not appear to be what the public is asking for at this point. They're asking for flexibility. They're asking for the ability to consider other aspects of an issue than strictly just the planning or environmental concerns. We have to do this, every planning advisory committee, when we deal with our elected officials. They balance the planning information along with other information in order to make an informed decision. I think the responsibility from a planning perspective is to get the information to the decision-makers so they can make an informed decision across the board.

Mr Christopherson: They don't have to make one; that's our concern. They can just totally disregard those concerns if they choose under this legislation.

The Chair: Thank you both for taking the time to make a presentation before us here today.

GREATER BOBS LAKE LANDOWNERS ASSOCIATION

The Chair: Our next presentation shall be from the Greater Bobs Lake Landowners Association.

Mr Lynn McIntyre: Thank you for the opportunity to appear before your committee. By way of introduction, my name is Lynn McIntyre. I'm president of the Greater Bobs Lake Landowners Association.

We are a non-profit community-based volunteer organization dedicated to protecting the quality of the greater Bobs Lake environment for the present and future generations. We were formed in 1968 and over these almost 30 years I've seen considerable change in the lake environment. We're made up of approximately 400 permanent and seasonal residents and we certainly promote responsible and sustainable development. We believe there has to be a framework in place to consider all the diverse interests and to arrive at a course of action.

Our lake is located in Frontenac county. It's the second-largest lake in the Rideau system, the headwaters of the Rideau system. It's a source of drinking water for communities like Perth as well as serving as a reservoir for flood control on the Rideau system.

We believe that the proposed changes to Bill 20 and the associated policy statements will lead to some environmental degradation and inconsistency in planning policy, and cause legal battles. When introducing the bill, the Honourable Al Leach stated that he expected Bill 20 to "give municipalities the autonomy they've asked for and...deserve" and "ensure that environmental rules will continue to be tough but do not stifle economic development and growth."

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I think what's interesting is when we compare this to the previous government's Bill 163, which stated it was empowering municipalities, protecting the environment

and streamlining the process. Although the goals are remarkably similar, the means and method to achieve them are opposite. We find that if anything, this new bill undermines the environmental protection. In fact, the word "protection" in the title of the bill is a gross misrepresentation of the content of the bill.

Our concerns fall into five areas: Lack of provincial standards, loss of provincial review, no quality control on official plans, concentration of power within one ministry and restricted public input. We believe that in the majority of the areas, the amending formula only serves the land developers.

More specifically on the area of provincial standards, we have concerns over the phrasing in section 3, "be consistent with," replacing "have regard to." We believe the change will allow decision-makers to merely look at the policy; this makes the policy meaningless. It will also introduce uncertainty and inefficiency in the system. Clear policies and legislation help to prevent big disputes. Since over 80% of Ontario municipalities have a population of less than 5,000 people, there are limited resources to be spent on planning. Clear and concise policy statements and legislation are required.

If the legislation is weakened, it will ultimately lead to a site-by-site battle each time and environmentally sensitive development application is submitted. The return to the use of "have regard to" will increase confusion, uncertainty and inconsistency, and delay applications. This will also take away power from the municipalities since all cases will have to be decided before an OMB hearing. This lack of clear direction will mean the end of upfront planning and environmental standards dropping to the lowest common denominator.

Our second concern is the loss of provincial review. Another of the objectives in Bill 163 planning reform was to reduce the provincial role in reviewing local plans. This was achieved by clear policies. The proposed amendments remove this clarity because Bill 20 transfers the approval to the upper-tier municipality. The onus will then be on the public to ensure provincial policies are adhered to. Residents who have a good working relationship with the municipal government will be put in difficult positions, having to defend provincial policy with very limited resources. The net result will be both community discord and costly, drawn-out decision-making.

The third concern we have is the concentration of power within one ministry. Changes in the bill will allow the concentration of power within the Ministry of Municipal Affairs and Housing to determine whether matters are referred to the Ontario Municipal Board. The Ministry of Municipal Affairs and Housing is designated as the only provincial government ministry that may appeal decisions to the OMB. With the focus of this bill on development, this could allow, for example, development in a class 1 wetland leaving conservation authorities or the Ministry of Natural Resources unable to appeal the decision before the OMB. Essentially, this gives MMAH veto power over matters to go before the OMB. This is particularly dangerous when judgements could be made in areas where the ministry has no expertise.

Our fourth concern is loss of control in official plans. Under section 17 of the proposed bill, the prescribed

contents of official plans have been removed. Since there is no provision to provincially regulate the content of an official plan, it will be determined solely by the municipal council. Coupled with unclear provincial policies, neighbouring municipalities could apply the policies inconsistently, leading land owners in abutting municipalities to be treated differently.

Our fifth concern is restricted public input. In Bill 163, official plan amendment applications had to be dealt with within a six-month period. Bill 20 reduces this to 90 days. This is the same time frame required for making decisions on rezoning applications. This neither permits adequate study of major changes in direction by municipal councils, nor does it give any sense of permanence to official plans. The shorter time limits would appear to reduce public involvement in the process rather than providing the opportunity for it. Again, this will lead to frequent debates about where the municipality is headed.

In closing, it is our recommendation that we cannot support the bill in its present form and recommend that the committee consider the following amendments: that planning decisions revert to the "be consistent with" policy rather than "have regard to"; that the appropriate agency or ministry be involved in official plan reviews; and that all agencies or ministries have the right to appeal before the OMB.

We believe that the passage of this bill without these necessary changes, coupled with the effects of Bill 26, the Savings and Restructuring Act, will have a devastating impact on the local municipal government.

I thank you for your time and consideration.

Mr Gerretsen: What Mr McIntyre didn't say is that Bobs Lake is surely located in one of the nicest parts of Ontario. Having a residential property close by but not on Bobs Lake, I would concur that you've got a great deal to be concerned about, sir. The five areas of concern that you've identified in your brief are exactly the issues that basically have been discussed by this committee.

One of the things that we've suggested—and I just want to hear your comments on it—is that we approached a one-window approach from the general public's viewpoint so that they know who to contact on a particular file etc, but we also want to see some sort of a protocol document, and that it be publicized as well, to clearly indicate how the various ministries will react to a particular proposal and interact with the Ministry of Municipal Affairs; and also, in effect, that each ministry will have the right to appeal a particular matter regardless of how the Ministry of Municipal Affairs necessarily feels about that, even though it would have to be funnelled through them for administrative purposes. How would you feel about that? Would that allay some of your concerns in that regard?

Mr McIntyre: I think the concept of a one-window approach is sound, anything that streamlines the process and allows the people the opportunity to provide input. It's probably noble that we would pursue that. The concern, though, is if we funnel all the power into one ministry and it becomes the superministry and others don't have that same ability to provide input in areas where they have concerns.

The other concern we would have is with this massive rationalization of government services and employees,

that there may not be the resources out there as well to provide the meaningful input that we need to achieve a one-window approach.

Mr Gerretsen: One of the concerns that we have deals with the restricted public input at the subdivision process. I believe in the Bobs Lake area you actually do have a fair number of subdivisions that were created, not just by separate lots, by a land division committee, but actual subdivisions, do you not?

Mr McIntyre: That's correct.

Mr Gerretsen: Would you not agree with me that the only way that your association can react to that is not so much when a rezoning takes place, but when the actual subdivision plan that's being proposed for, let's say, a waterfront development, that only then will you have an idea as to how it's going to be shaped and sized etc?

Mr McIntyre: Our concern in the reduced time frame in which these reviews take place is that normally they tend to occur in the winter months when all the planning is done and a lot of the people are not around to be able to provide their input. When we reduce the window in which they can provide their input, it causes us some concern.

Mr Gerretsen: But you see, what's suggested in the act is that if an area is, for example, zoned seasonal residential, the plan of subdivision go ahead without a public meeting at all. Are you in favour of that?

Mr McIntyre: No.

Mr Len Wood: Just from listening to your comments as you were going through, it sounds to me like you're saying that unless there are sufficient amendments to Bill 20, the bill should be scrapped and rewritten.

Mr McIntyre: That may be a bit strong.

Mr Len Wood: Okay. I may be reading into it.

Mr McIntyre: I think we've gone from one extreme to the other; we have to bring this back to middle ground.

Mr Len Wood: You're saying that the way it is right now would be, "This lack of clear direction will mean the end to upfront planning and environmental standards dropping to the lowest common denominator." You referred to it being coupled with the bully bill, Bill 26, that with the two of them together it's going to basically—and correct me if I'm wrong—shorten the time frame and shut the public out of having enough say or length of period of time to have a say on it.

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Mr McIntyre: I think also when we're talking about the very scarce planning resources that most municipalities have to begin with and we're talking about this realignment or the amalgamation of several townships into one—and I don't see whether you're going to be able to free up any more resources to put into planning—we have some concerns there, that when you start coupling these various bills, before you know it you have the responsibility to do these things but not the resources to be able to achieve them.

Mr Len Wood: It would very similar to what we have this winter during the storms that are going on, where the minister said, "The roads are going to be safe," and you find out now that with the amount of people they fired and the cutbacks, the only way they can make the roads safe after a few people have been killed is to get the OPP out there and blockade the roads, which they've done on

several occasions. It basically makes the people have to stay in their homes. They lose work, they lose all the activity that they normally do. So your concern is that the public wouldn't have any input into this at all because the time frame is too short.

Mr McIntyre: That's right, yes.

Mr Jerry J. Ouellette (Oshawa): You mentioned you have 400 members. What's the population of the area you represent? Is that the total population?

Mr McIntyre: The total population is around 900.

Mr Ouellette: What percentage of your membership is part-time and full-time?

Mr McIntyre: It would be probably split 50-50.

Mr Ouellette: Do you think that this legislation, if it were passed in its present form, would you make your more involved in your community or less involved?

Mr McIntyre: I think that we are quite involved with our community and our township presently. I think we have a very good working relationship. Members of our association in fact have bought fire trucks for the local township fire department. We have a good sense of community.

We're just afraid that without this clear direction in the policies, we're going to be drawn into some lengthy battles within the municipality. We don't want to see an erosion of this working relationship we have. We do represent a very diverse membership, seasonal and permanent. We have commercial operators on the lake. We have private individuals. So the concern is that we'd be put in an adversarial role. We really would prefer we have some clear direction so we know where we're headed.

Mr Ouellette: But you don't believe that your community as a whole can watch and take care of your community?

Mr McIntyre: I think when you start reducing the time frame for some of these procedures—

Mr Ouellette: Is that because it's seasonal?

Mr McIntyre: Perhaps in part, but also when you're working with volunteers in the community, it takes a long time to get the word out and to be able to—you know, it's not like paid employees where you can summons them to a meeting. You have to work within the context of their schedules. I think that's a problem.

Mr Ouellette: The subdivision that you mentioned earlier, when did that come about and what was your group's position on the subdivision?

Mr McIntyre: There are excellent examples of plans of subdivision on our lake that we are very proud of and there are some mistakes that have been made in the past which we're paying for now. We certainly believe in development. It was development that got us there in the first place, but we just want to make sure that it's sound and it's done to a standard so that developers cannot hop from one municipality to the other. Right now, there are four townships on our lake, two counties, two watersheds. It becomes very difficult to try and keep this beast together when we don't have clear provincial direction. We would hate to see them jump from Frontenac to Lanark just because they can get a better deal or a weakening of the standards.

Mr Hardeman: Good afternoon. I was just interested in going back to—and I appreciate your comments—the

issue of the one-window approach; you seemed quite supportive of the one-window approach. Then you have concerns as to the ability of all ministries to be able to appeal to the Ontario Municipal Board. In the instance where you have a one-window approach and it requires the other ministries all to direct their responses to an application through one ministry, would that not necessitate also that the end result would be that that ministry would have to actually do the paperwork for the appeal? If we now have a government approach that represents the view of the government, of the ministries, do you not see it appropriate that we would have then a ministry, whether it was Municipal Affairs and Housing, Environment or Natural Resources, but one ministry to actually be designated as the one to put forward the government appeal?

Mr McIntyre: Again, I think the approach of one window is an honourable and a very efficient manner of doing it. The concern is that the ability of one ministry to be kind of the superministry and have the discretion to say what goes to the OMB and what doesn't causes us some concern. The concept of one window is a good, sound concept.

Mr Hardeman: I guess we have one concern with not having one ministry doing the appeal process, that in fact we have a lot of time at the OMB and a lot of taxpayers' money expended having the ministries solving their differences in front of the OMB as opposed to solving them prior to the appeal so we have a government position, so the applicant and the municipalities can be assured that this is where the government is coming from and this is where the others are coming from and that's why we're at the OMB, not to solve the Ministry of Natural Resources and the Ministry of Environment's differences at the OMB.

Mr McIntyre: Again, if you have clear policy and clear direction, then there may not be a problem, but when we're dealing in some of these grey areas—

Mr Hardeman: Your concern really is then that we need to outline the protocol of how we would achieve that final one-window approach.

Mr McIntyre: Yes, and have some strong legislation that backs it up so we don't end up in these bidding wars between ministries and infighting. But if we have clear direction, I think that's a sound approach.

Mr Gerretsen: Mr Chairman, maybe the bus on the way to Cobourg could be rerouted through the Bobs Lake area.

Mr Baird: I would propose that the committee meet in the summer for two weeks of hearings in Bobs Lake.

Mr McIntyre: Not a problem.

The Chair: Considering it will be about 9:30 at night, I don't know how scenic any part of eastern Ontario will be at that time.

Mr Hardeman: The committee is now used to long trips. I think we could likely accommodate the member.

The Chair: Thank you very much, Mr McIntyre. We appreciate your taking the time to make a presentation.

ASSOCIATION OF RURAL PROPERTY OWNERS

The Chair: Our next presentation is from the Association of Rural Property Owners. Good afternoon.

Mr Harold Harnarine: My name is Harold Harnarine. This is Mr Bob Woolham. He'll be addressing issues relating to the bill proper and I'll be talking about the policy statement.

Mr Bob Woolham: At the outset, I think we might say that we consider Bill 20 to be a considerable improvement over Bill 163, which from a rural perspective has given a lot of people a great deal of concern, concern I think not just in the application of the bill, but this question of local input and control in terms of "have regard to."

I'd just like to broaden, because I think what really needs to be said Harold is going to say, but I'd like to bring it into the context of my perspective as a rural property owner and how I see some of the things that are coming out of these things.

One thing is that in my observation everything is unique; there are no two individuals or things that live that are exactly the same. There are no two worms the same, no two robins and so on. The piece of property I own is the same way. It's quite unique; there's not another piece like it in the world. Now in that context of uniqueness, there are philosophical views that look, on the one hand, of recognizing the individual approach to doing things and, on the other hand, the need for state control.

We've come through five years or so where it was quite clear where the state control fitted in respect to the private individual and the private piece of property. At the same time, we also have now a great number of very well-organized special-interest groups—to mention a few, Ducks Unlimited Canada would be one, the Ontario Federation of Naturalists, the Ontario Federation of Anglers and Hunters, the Canadian Wildlife Federation and so on—quite a few of these supported heavily with tax expenditure dollars which private property owners don't aspire to.

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Now in that context as well, there's also a very large bureaucracy, and that bureaucracy has the same interests in the context of, where would you like to have control, centrally or at the local level? There's no question that the bureaucracy itself works very, very hard for things that include more regulation, more control and more input for its own employment and its own development, if you like.

What's happened, I think, is a tremendous competition, because if you're a forester, then you like woodlots, and if you're a wetland biologist, you're going to push for wetlands and so on. Whatever you're doing, on the one hand, you have this internal strife between ministries. That is the problem of different pieces of legislation.

So in the context of planning right now, we have so many overlapping rules and so many agencies involved, from the Public Lands Act to the Lakes and Rivers Improvement Act to the Conservation Authorities Act, that it's impossible to get a clear-cut, easy, simple solution to things; it has to be very complicated. I'm sure that the taxpayers have spent at least \$6,000 and it's still not given me an answer on how to get a few cattle across a narrow stream that isn't any wider than this.

Environment wants to protect the water, MNR wants to protect the fisheries and they can't agree; and the

Coast Guard isn't sure where the canoeist fits in. They've all been there—twice, with big trucks, radio control, everything. There are eight pages of permit applications if you choose to go that route.

Then it's not good enough really just to have it at one level, but when we come to things like wetlands—and I'm not here to argue that wetlands are not relevant. I think they're a very important part of the process, but not when the bureaucracy gets a hold of them, because not only do we have class wetlands of a certain nature, but the conservation authorities decide it would be a good idea to put fill lines around all wetlands just as they do floodplains.

So in a sense we have then another set of circumstances that really just spend up a great deal of money, and this really infuriates the private property owner, because the legislation may have some very good concepts, but then we get into the implementation and guidelines, and that sort of disappears into this bureaucratic wilderness, and then below that comes the evaluation manual. The evaluation manual is usually done, as for example wetlands, by eight people from MNR, and no outsiders and no input from anybody where they're evaluating economic things that involve access to that private property, like hunting, trapping, picking worms or whatever it is that happens to be there. This is why I think the question of private property then becomes important in terms of what it really means.

I think that it's this process that is involved then of looking at how development fits in the countryside, and we're talking basically of sewage and withdrawal of water. Instead of looking at what's needed in that context, the bureaucracy, with the help of the special-interest groups, is using development as a tool to advance its particular interests. This is where I call upon the politicians, in a sense, as leaders and so on, to provide the kind of representation and leadership that would manage this in a much more direct fashion.

I might say, when I use the word "manage," any time I've looked at any of the literature from the bureaucracy, the bureaucracy is always managing—they're managing the fur harvest, the woodlots, they're managing something—but when it comes to the private property owner, we suddenly become stewards; we're working for somebody else. So we have these huge stewardship programs.

Now I say that there's a viewpoint out in the countryside. It's not against planning and it's not against having more neighbours, but it does really find a great deal of frustration in the process.

Mr Harnarine: The Association of Rural Property Owners, for short ARPO, wishes to congratulate those responsible for drafting the new policy statement. We think that the designers have incorporated several important features, particularly questions about balancing the pursuit of economic goals and ecological goals; the flexibility in the application of the rules; the autonomy, responsibility and accountability assigned to municipal authorities; and, above all, the concise way in which all this is packaged—welcome relief. I should add to that that there is due recognition of rural concerns in that statement. ARPO interprets this vision of land use planning as a refreshing change from the grossly unbal-

anced, inflexible and highly centralized approach taken by the previous, NDP government.

ARPO's position on these rules, in summary, is that they will not work well unless the old assumptions underlying the economic, legal and political structures relating to the ownership of land resources are changed or removed. Land planning, by definition, replaces economic criteria with a set of political criteria in determining how land is to be allocated among its various competing uses. Since non-land owners and mostly urban people in Ontario carry an overwhelmingly large weight in the political process compared to land owners and mostly rural people, there will always be a large measure of political tension in how rural lands are to be put to use. As a result, ARPO will argue that certain preconditions have to be put in place before the politics in the land planning process will function smoothly.

ARPO is therefore calling upon the Harris government to give serious consideration to the following three necessary conditions for the healthy functioning of the new policy statement:

(1) Ensure that when private lands are confiscated to serve the public good under the planning process that the private land owner be fairly and adequately compensated for the accompanying losses in the value of his property.

(2) Ensure that the legal questions of private property ownership rights are put to rest in Ontario once and for all by legislation that will define and protect such rights from the overt or disguised seizure by the state.

(3) To make changes to the political structure of an upper-tier municipal government to ensure that rural people are given a fair and equitable representation in matters relating to their overall interests.

The end result of these changes will clear the way for a just and more balanced distribution of political and economic power in land planning matters. They will also facilitate the application of the new rules in a more flexible and responsible manner.

On the mechanics of the policy statement, I wish to make one comment, and this deals with the linkages between the statement proper and the relevant definitions found at the back. In a few cases, we have found that the statement gives with one hand but takes away with the other at the definitional stage. I think this dichotomy calls for some scrutiny.

An elaboration of the major issues: I won't take too much time because I think the reading is in front of you. People buy land largely for private economic benefits. Planners, on the other hand, tend to overrule these private interests with actions promoting the wellbeing of society. The net result of official land planning action therefore is to confer gains on some or all sections of society at the expense or loss to the private owner.

Planners either assume that their actions are economically neutral or the planners refuse to take responsibility for the considerable economic repercussions falling out of their actions. The fact is that political actions concerned with land allocations have tremendous effects on redistributing personal incomes and wealth, and since all planning actions do involve gainers and losers, the question that we are asking is how come gainers are allowed to accept the gains free of cost? Why not transfer

the gains to the losers such that you neutralize the planning results? Why this compensation principle? Simply because land ownership will be treated on par with ownership of other resources. You have your money in the bank. Why should that be any different from owning land as an asset?

It will make investment in land less risky and thus help to lower its price. It'll bring back a greater degree of confidence and certainty to the land market and it will make the land market more competitive and save it from falling into the hands of the wealthy few.

Second point: Land ownership rights and the need for legislated protection. Non-land owners living in crowded spaces need rural lands for outdoor recreation, among other less articulated demands. It is not too difficult to imagine that they will use their overpowering political weight to obtain the land resources needed to supply such services without cost to them. It is strange how people acting as individuals are generally very respectful of private property rights, but when they become part of a larger collective political force they will not hesitate to steal from their defenceless neighbours in the name of the public good.

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ARPO has advanced the case for some form of legislated protection to private property rights in Ontario on every occasion it has met with government officials. We regard this condition as vital before land owners could engage in some meaningful dialogue with non-land owners on the appropriate allocation of land to meet both private and social demands.

My third point: This has to do with the structure of upper-tier municipal government and the operation of policy statements. In the Ottawa-Carleton region there is much talk these days about the virtues of one-tier municipal government. It is interesting that when rural mayors talk of one-tier government, they frequently imply the elimination of the regional government. On the other hand, when advocates of the regional government talk about one-tier government, they assume the ultimate termination of local municipal government.

I believe it is the intention of the Ministry of Municipal Affairs and Housing to concentrate the powers on land use planning in the hands of upper-tier government. This means in effect an emasculation of the powers of rural people in determining the course of land planning actions in this region.

Let's look at the following facts: We have 18 elected members at present in the Ottawa-Carleton regional government. Of these, only two elected councillors, wards 5 and 6, are deemed to represent preponderantly rural populations. These two wards, however, represent 71% of the geographical land space of the region. Thus, when it comes to the political determination of land use in Ottawa-Carleton, it is clear that the rural people who own the land resources are outnumbered nine to one in terms of political representation. What kind of balance, I ask, is this? A strict adherence to the population-only criterion in determining the distribution of political representation in municipal government, in our opinion, is a gross oversimplification of the real world of politics.

Finally, the linkages between the statement and the definitions: The designers of the new statement must be

careful not to give on the one hand and take away with the other. Let me give you two examples.

(a) Under 2.1.2, a farm retirement lot for residential purposes is permitted on prime agricultural land. Under the definition, this lot will only be permitted to a full-time owner-operator of a farm. I ask, why this restriction, given the reality of farming in Ontario today? How many farmers could truly say that they depend entirely on farm income to survive? This is an excessively strong restriction and is likely to defeat the general intent of the statement. All the other restrictions in the definition appear to be fair and reasonable. Why then burden the definition by a further measure of unreasonableness?

(b) Under 2.3, natural heritage, the troublesome concept of adjacent lands has appeared once more. It is clear from the statement that no development or site alterations will be permitted on significant wetlands or significant portions of the habitat of endangered or threatened species. Talking about endangered species, rural wetland owners should be classed there.

In the definition, we learn that the extent of the adjacent lands will be specified in the implementation guidelines. Not having the implementation guidelines at present, I would say that in the light of the unreasonable and rigid specification of adjacent lands seen before, ARPO would have preferred that this requirement be abolished completely. It is enough that the limits of the designated property be clearly drawn. Any development occurring in the neighbourhood of these limits will be subject to an environmental impact study requirement. If this is not sufficient for those who demand these adjacent lands, then ARPO would like to see substantiated scientific evidence for specifying such limits. Failing this, then adjacent lands must be reduced to their absolute minimum, which logically will be no more than the average width of a country side road in most instances.

Thank you very much, Mr Chairman.

The Chair: Thank you, gentlemen. We have a bit of a conundrum because there are only two minutes left.

Mr Gerretsen: Oh, come on.

Mr Christopherson: Give a little.

Mr Gerretsen: Two minutes each. They've got a lot of interesting points we want to hear.

The Chair: And there are three other groups backed up behind them.

Interjection.

The Chair: Well, if you think you can do something in 45 seconds to a minute.

Mr Christopherson: Thank you, Mr Chair. I'll make a statement rather than getting into questions. Having accused us of being grossly unbalanced in your report, I would say to you with great respect that I appreciate the balanced approach you have taken in coming in today.

I also note I find it interesting that by definition of this government you would qualify as an interest group and therefore would probably be considered evil.

Thirdly, I find it also interesting that you condemn any kind of—not any kind, but government action as state control, and yet somehow, if it's the local government making the decision, that doesn't represent the state. For a lot of people, fighting city hall is indeed fighting the state. So I find quite a few inconsistencies and contradic-

tory positions within your report, but do appreciate the time you've taken to come and present to us. Thank you.

Mr Murdoch: I just want to thank you for bringing your brief. I certainly agree with what you're telling us. I agree on property rights and it's time that we get into looking at that. I know some of the other parties don't believe in property rights, but I'll tell you, we do, and I certainly appreciate that. I want to also put on the record that Mr Christopherson doesn't talk for our party, so don't worry about anything he said. Thank you very much.

Mr Harnarine: Very obvious.

Mr Gerretsen: As far as the bureaucracy is concerned, I totally agree with you. Until the political leadership at any level, whether we're talking about the township, the city, the province, the federal government, takes a hold of the bureaucracy and really directs it in the proper way, everything we talk about here is meaningless. What you say about how individuals on a one-to-one basis respect property rights but that collectively something happens, it's the same thing with bureaucrats. Individually, they're very reasonable people, but once they all get together with their different interests, that's when you get gridlock. Absolutely nothing happens.

Just one other point. When all you get are two councillors on a regional council, how do you think we feel? These people got elected with 45% of the vote and they got something like 70% of the seats. There's something totally wrong in our system and I'm glad you brought it to our attention.

The Chair: Thank you both, gentlemen, for taking the time to make a presentation before us here today.

CLINIQUE JURIDIQUE POPULAIRE DE PRESCOTT ET RUSSELL

The Chair: Our next presentation is from the Clinique juridique populaire de Prescott et Russell. For those needing translation, the English is on 3, the French is on 4.

M^{me} Louise Toone : Bonjour. Je suis Louise Toone, avocate à la Clinique juridique populaire de Prescott et Russell. C'est une clinique d'aide juridique en Ontario. Juste pour me présenter un peu, et mon agence, on a deux systèmes d'aide juridique dans la province : le système des certificats et le système des cliniques. Dans les cliniques on travaille avec les gens à faible revenu. On fait surtout ce qu'on appelle du droit de la pauvreté. Entre autres, on travaille beaucoup dans le domaine du logement avec les locataires.

Aujourd'hui, mes soumissions vont surtout porter sur tous les changements dans le projet de loi qui touchent les locataires. Alors on vient, avec le projet de loi 20, révoquer essentiellement tout le projet de loi 120 sur les résidents. Ma discussion aujourd'hui va surtout porter sur cela, sur les appartements dans les maisons.

En juillet 1994, la loi sur les résidents a fait un peu comme ce projet-ci. C'était un genre d'« omnibus bill », qu'on dit, qui est allé faire des changements dans plusieurs lois ; entre autres, la loi sur la location immobilière, La Loi sur le contrôle des loyers, La Loi sur l'aménagement du territoire, et ainsi de suite, un peu comme ici. Essentiellement, ce qu'on permettait avec tous ces changements, c'est qu'une maison unifamiliale, partout à

travers la province, pouvait avoir un appartement. Alors, c'est ce qu'on faisait avec la Loi. Il y avait quelques petites exceptions, mais de façon générale, on permettait toute personne dans une maison unifamiliale.

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Le projet de loi 20 vient révoquer tout cela, a carrément enlevé tous les articles dans toutes les lois qui ont trait à cela. En fait, on redonne le pouvoir à la municipalité, et cela devient complètement discrétionnaire. Donc, on retourne un peu à la situation qui existait avant le projet de loi 120. On dit à la municipalité, « Faites ce que vous voulez. » Donc, chaque canton, chaque municipalité, je ne sais pas combien il y en a en Ontario, on leur dit : « Faites-le. C'est à vous. » C'est ça, le gros changement entre les deux lois ; (1) On disait à tout le monde : « Vous avez la permission » ; (2) aujourd'hui on dit : « Vous faites ce que vous voulez. Si vous le faites, voici ce que vous pouvez faire. »

Dans le même sens, la Loi 20 empêchait toute municipalité, tout canton de faire des règlements, des « bylaws », qu'on dit, qui prohibaient à des gens de bâtir un appartement dans leur maison. Ça, « maintenant c'est permis, c'est révoqué » — je peux, si vous voulez, même vous référer aux articles de lois, mais ce n'est peut-être pas nécessaire. C'est redevenu discrétionnaire. Je crois, en fait, que ça touche un peu les objectifs du projet de loi. Je l'ai seulement en anglais, mais on parle de « An Act to promote economic growth », entre autres, et aussi de « streamlining the land use ». Quand je pense à cela — surtout à « streamlining » — je pense au concept d'uniformité, finalement, qu'on essaie de rendre les choses certaines pour les gens. Si on ne l'atteint pas, l'objectif de « streamlining », et au niveau économique, je pense qu'on vient rendre la chose beaucoup plus compliquée. Ça, je vais l'expliquer un peu plus tard.

La loi d'avant, le projet de loi 120, imposait un certain fardeau sur un propriétaire, c'est clair. On disait à un propriétaire, « Pour bâtir un appartement dans votre maison, vous avez certaines normes. » Ça impliquait certainement des dépenses, mais ce n'était pas un fardeau énorme ; c'était rencontrer les normes concernant les incendies, quelques normes selon le Code du bâtiment, puis on donnait un certain délai.

Finalement, ce n'est peut-être pas intéressant pour un propriétaire, mais il va certainement être capable de le reprendre comme déduction d'impôt. Aussi, ça permet à tout propriétaire dans la province de garder sa maison, peut-être. On sait que les temps sont durs, on sait que les gens ont de la misère à payer leur hypothèque aujourd'hui. Quand on leur permet de bâtir un appartement, peut-être qu'ils vont pouvoir prendre un locataire, puis ça va peut-être faire en sorte qu'ils gardent leur maison. Pensons aux personnes âgées, par exemple. Ils ont des revenus fixes. Ce genre de loi leur permet peut-être de construire un petit appartement et d'avoir un revenu et des déductions d'impôts. C'est évident que les locataires gagnent là-dedans. Je parle encore de l'autre Loi ; je parle là de votre Loi ; je parle de l'autre Loi.

Les locataires se ramassent dans des appartements, où il y a certaines normes. Alors c'est évident que, si je suis ici, je représente la perspective des locataires, des locataires ruraux aussi, mais tout locataire là-dedans gagne. On

estimait avant qu'il y avait 100 000 locataires dans la province qui vivaient dans des logements où il n'y avait aucune norme. Alors, quand on pense à des incendies, à toutes sortes de situations comme ça, ce sont les locataires ; ce n'est pas sécuritaire. Même quand il n'y a pas de normes en place, les propriétaires en construisent, des appartements dans leur maison. Il y en avait 100 000 avant. Même s'il n'y a pas de loi, même si on révoque tout cela, les propriétaires vont continuer à bâtir des logements dans leur maison. Cela rejoint un peu la situation des propriétaires. Si jamais il y a un incendie ou quelque chose comme ça, c'est eux-autres qui vont se faire poursuivre. Ils n'y gagnent rien à n'avoir aucune norme là-dedans.

Quand j'arrive un peu à vos objectifs ici du projet de loi, qui est de promouvoir le développement économique, «streamline» — moi, je vais parler plutôt d'uniformité ; je pense que c'est l'approche — je peux présumer que le gouvernement conservateur tente de déléguer des pouvoirs aux municipalités. Cela semble être clair. Ce n'est pas dans le projet de loi ici, mais cela semble être une tendance générale. Donc, on a cette tendance de vouloir donner plus de pouvoirs aux municipalités. Évidemment, les municipalités vont être contentes. Elles vont dire : «On a plus de pouvoirs. On peut faire ce qu'on veut. Il n'y a personne qui nous contrôle. Tant mieux.»

Mais le résultat dans tout ça, c'est qu'on va avoir une municipalité qui a des règlements qui empêchent un appartement. On peut penser surtout aux villes, à Ottawa-Carleton, par exemple. Ça peut être n'importe quelle ville qui a ces petits quartiers résidentiels où on dit : «Non, non, on ne veut pas d'appartement là. Ça va changer le caractère du quartier. C'est affreux.» Ensuite, on va avoir une autre municipalité, un autre canton qui n'aura rien. Mais les gens vont construire des appartements quand même et ils vont être aveugles, ils vont dire : «Nous, ça se passe pas. On l'ignore.» Puis on va avoir d'autres municipalités qui vont créer des règlements parce que votre projet de loi le permet, si on veut. Alors, on va se ramasser avec un «mish-mash», comme on dirait en anglais, avec des règlements partout différents d'un canton à l'autre.

À Prescott-Russell, on a 18 municipalités. J'inclus les cantons, les petits villages. On peut voyager 20 kilomètres puis on va avoir des règles différentes. C'est clair que s'il y a aussi une tendance où on veut amalgamer des municipalités, donc, est-ce qu'on atteint l'objectif à long terme quand on a des règlements partout différents et que, à long terme, on songe à amalgamer ? Qu'est qui va arriver ? On va avoir trois municipalités avec trois structures différentes, puis il va y avoir des chicanes. Qu'est-ce qu'on fait ? Quel règlement est-ce qu'on choisit ? Qu'est-ce qu'on en fait ? Qu'est-ce qu'on empêche ? Est-ce qu'on le permet ? Qu'est-ce qu'on fait là-dedans ? Je pense que, quand on parle d'amalgamer des municipalités, on parle justement de cette idée de «streamline». On songe à avoir une uniformité, et puis ça réduit les coûts parce qu'il n'y a pas un dédoublement partout. Quant à moi, le projet de loi 20 n'atteint pas cet objectif. Même si on dit que c'est dans le but de «streamline», je pense que le projet de loi n'atteint pas du tout cet objectif en ce qui concerne les appartements dans les maisons, en tout cas.

Pour la question du développement économique, prenons, par exemple, le petit investisseur, le petit propriétaire qui songe à construire un appartement dans sa maison. S'il a le choix entre deux municipalités ou deux cantons, l'un a des règlements, l'autre n'en a pas, il va choisir celui où il n'y a pas de réglementation. Donc, c'est l'autre qui perd. Puis à long terme, ce propriétaire-là ne gagne rien parce que ça va être fait ; il ne sera pas obligé de suivre des normes, alors il va faire ça, et il ne va pas nécessairement augmenter la valeur de sa maison parce que ce ne sera pas bien fait. C'est souvent pas bien fait.

À moins que je comprends mal, qui gagne dans tout ça ? C'est sûr que le locataire ne gagne pas, et je ne crois pas que le propriétaire gagne non plus. Le propriétaire qui songe à investir ici et là, c'est sûr que si les mêmes normes s'appliquent partout, un qui va acheter, c'est que l'appartement a été construit selon des normes minimales, alors on sait que la même chose s'applique partout. C'est bon pour l'investissement, c'est bon pour le marché immobilier, et quand on laisse le choix à toutes les municipalités, ce n'est pas bon pour l'investissement au niveau des petits investisseurs et des propriétaires.

Les municipalités gagnent, peut-être. Les municipalités vont acquérir un pouvoir, les municipalités qui choisiront de ne rien faire vont gagner dans le sens qu'elles n'auront pas d'inspecteur à embaucher. C'est à peu près la seule chose, le seul fardeau qu'on pourrait avoir. Mais est-ce que les municipalités ici sont vraiment en train de tenir compte des intérêts des gens ? Je pense que non. C'est certainement ma soumission, que non.

1600

Le gouvernement provincial, est-ce qu'il gagne ici ? Moi, je ne comprends pas le but. Ça m'échappe. Est-ce qu'il y a eu des plaintes quelque part ? Est-ce que ce sont les municipalités qui se plaignent ? Est-ce que ce sont les propriétaires ? Pourquoi est-ce qu'on révoque ça ? Moi, je ne comprends pas. Je ne vois aucun bénéfice au gouvernement provincial et je ne vois aucun bénéfice à la municipalité. Les municipalités urbaines, c'est clair qu'elles vont choisir de faire des règlements pour empêcher la construction. Alors, qu'est-ce que ça fait ? Ça crée ce qu'on appelle le «urban sprawl», parce qu'on garde nos petits quartiers résidentiels et on dit, «Non, non, allez-vous-en dans les banlieues», puis on encourage la création de banlieues qui sont souvent très laides. Je ne les nommerai pas.

J'aimerais juste peut-être donner un exemple, quand je parle de dédoublement ou de l'uniformité, que vous appelez «streamlining» encore. Je vais me référer à Prescott-Russell, où il y a à peu près 18 municipalités. Dans chacune des municipalités il y a des normes de biens-fonds, qu'on appelle en anglais «property standards». Donc, chaque municipalité, chaque canton a son inspecteur. Il y en a qui ont des règlements, il y en a qui n'ont pas de règlements. S'ils n'ont pas de règlements, ce sont les normes provinciales qui s'appliquent. Alors, imaginez-vous un propriétaire ou un locataire qui essaie de se trouver dans ce méli-mélo. C'est souvent très difficile. En plus, ce n'est pas très efficace au niveau de la compétence. On se ramasse avec un employé dans un petit canton d'une petite municipalité qui souvent porte

trois chapeaux différents parce qu'il fait quatre jobs, plutôt que d'avoir une personne qui est très spécialisée, très compétente et qui s'occupe d'une région un peu plus large. Je pense que c'est une bonne illustration que, si on permet qu'un projet de loi continue, on va se ramasser avec des structures, des normes différentes partout dans la province.

Je conclus en vous demandant de réexaminer toute la question en ce qui a trait aux appartements dans les maisons. Je suis convaincue que si les propriétaires et les locataires étaient bel et bien au courant du changement ici, ils préféreraient le projet de loi 120. Les gens, je pense, ne sont pas vraiment au courant, et c'est malheureux. Je pense qu'il faut se questionner sur le but du projet de loi. À part de donner des pouvoirs aux municipalités, qu'est-ce qu'on essaie de faire ici ? Comme j'ai dit, c'est ma thèse qu'on n'encourage pas l'uniformité. On va à l'encontre du développement économique, donc il faut se questionner sur le but du projet de loi.

Selon moi, la Loi 120 est un changement très positif. Je vous demanderais donc de sérieusement considérer, de révoquer tous les articles dans le projet de loi 20 qui ont révoqué les articles dans la Loi 120. Je suis certainement prête à vous les énumérer, si vous voulez. Merci.

M. Baird : Merci pour votre présentation aujourd'hui. On l'a beaucoup appréciée.

Vous avez dit quelque chose dans votre présentation, et je peux dire qu'il ne fait pas partie du projet de loi, de révoquer les appartements qui sont déjà là. Il y a des parties du projet de loi qui disent que ceux qui sont là qui sont légaux restent sans changement.

M^{me} Toone : Oui, ça, je suis au courant, mais on parle d'une période d'à peu près un an, là. Le projet est entré en vigueur en 1994, on est rendu à 1996, donc on parle seulement de ceux qui auraient été construits pendant un an et demi.

M. Baird : Oui, bien sûr, mais vous avez utilisé le numéro de 100 000 appartements dans le sous-sol, accessoires qui sont déjà là. Je pense que la grande majorité de ces appartements sont légaux maintenant, sont déjà là pour la santé, des choses comme ça.

M^{me} Toone : Oui, d'accord. J'ai dit que quand la Loi 120 est entrée en vigueur, c'était d'ailleurs le but parce qu'il y avait 100 000 appartements, on estimait. Mon point, c'est qu'on va retourner à ça. Si on n'a pas de règlements en place, on va retourner à la situation où on aura des gens qui vont faire la même chose, qui vont construire des appartements dans leur maison illégalement, finalement légalement, dépendant d'où ils sont, et que ce sera mal fait. Il n'y aura pas de normes. Il n'y aura pas d'inspections. Ça va créer des dangers, finalement, non seulement pour le locataire mais pour le propriétaire.

M. Baird : Je pense que 18 mois après le passage de la Loi 120, il y a 5 % des appartements dans les sous-sols qui sont vérifiés pour les standards de feu et de santé. Déjà, après un an et demi, 5 %, c'est un grand nombre dans cette période.

M^{me} Toone : C'est vrai de tout logement, finalement. C'est un problème partout. Ce n'est pas juste les appartements dans les maisons.

M. Baird : C'est plus grand dans ce domaine, bien sûr.

M. Lalonde : Tout d'abord, Louise, je tiens à te féliciter pour ta présentation. Il n'est pas toujours facile de venir faire une présentation devant un groupe anglophone, mais aujourd'hui on s'aperçoit que les gens ont pris la peine de t'écouter.

Tu as posé une question tout à l'heure : qui s'est opposé au projet de loi 163 ? C'est définitivement les municipalités qui s'y sont objectés. C'est qu'il y a des bons et des méchants côtés avec le nouveau projet de loi. Chaque municipalité a le pouvoir de préparer son plan directeur en conséquence, mais il serait peut-être préférable qu'à l'intérieur du projet de loi 20, le gouvernement pense à y inclure un article ou une partie qui encouragera les municipalités à encourager le deuxième logement dans le sous-sol, par exemple. Actuellement, plusieurs vies ont été perdues depuis l'application du projet de loi 163. Il faut dire, en regardant les statistiques, que c'est vrai. Les gens étaient encouragés à construire ou à aménager un deuxième logement dans leur sous-sol, mais sans regarder les implications municipales, les implications sécurité. Il faut là regarder un peu tout, la santé et tout ça, et puis dans ton cas je suis certain qu'un point qui est souvent apporté à ton attention, c'est la sécurité et la santé des gens qui doivent demeurer dans les sous-sols.

Avec ce projet de loi 163, ça aidait aussi aux propriétaires à conserver leur maison, à garder leur maison. Aujourd'hui, dans notre région, sur toute Prescott-Russell, les gens ont de la difficulté à arriver. C'est la seule manière qu'on pouvait garder vraiment leur propriété, en construisant un logement au sous-sol. Mais avec ce projet de loi, maintenant je crois qu'il est encore possible. Il faudrait s'assurer que le gouvernement incluse dans le projet de loi 20 une clause qui autorise les municipalités à accepter des zones-logis.

Mais aussi, l'autre point, c'est que dans les municipalités, souvent nous sommes pris avec les services égouts sanitaires. Une usine d'épuration des eaux usées peut-être ne permettra pas une certaine quantité que va des fois demander une augmentation de 20 % de la population dans cette municipalité. Mais les personnes âgées, tu l'as touché tout à l'heure, c'est la seule manière où je dirais 60 % des personnes âgées peuvent conserver leur propriété dans le moment, en acceptant un deuxième logis dans un sous-sol.

D'après toi, est-ce qu'il y a des municipalités qui sont contre actuellement, ou quelle est la position des municipalités sur l'article 14 dans le moment ? Il n'y en a aucun administrateur de Prescott-Russell qui nous a fait une présentation.

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M^{me} Toone : Je ne connais aucunement la position des municipalités. Je ne sais pas. Je sais que le projet de loi 20 maintenant permet aux municipalités — les municipalités peuvent le permettre, peuvent faire des règlements, des «bylaws» pour permettre l'appartement. C'est complètement discrétionnaire. Donc, c'est à chaque municipalité, à chaque canton de décider oui ou non.

M. Lalonde : Notre temps est écoulé ?

Mr Gerretsen : Oh, come on, let him go on.

M. Len Wood : Merci beaucoup pour ta présentation. Je représente la région de Hearst, Smooth Rock Falls puis Kapuskasing. J'ai compris presque tout le français mais je vais demander une question ou commenter en anglais.

I agree with your comments that we're going to turn the clocks back to putting people at risk. This is one of the reasons the NDP government brought in legislation, to make sure there was good, clean, safe, affordable housing in basements and to bring the 100,000 illegal apartments up to standard so that they would be good for people to live in and it would be an economic tool for people who wanted to build apartments there and help to pay for their mortgage and help to send their kids to university and college and these things.

We see that the Conservative government is going to turn the clocks back 10 or 15 years to when they were in government and run up huge debts and put people at risk. Now we have them saying again that they're going to ban apartments in basements. They can't do it. They couldn't do it when they were in power for 42 years. They had apartments all over the place that were unhealthy, unsafe to live in, and now people who own houses are going to continue to build illegal apartments and we're going to have people dying in these apartments from fires—and unhealthy; we're going to have landlords throwing them out if they complain. I agree with you. You don't think it's a good idea to turn the clocks back to the dirty old days of when the Conservatives were in government for 42 years. This is exactly what they're doing.

Le Président : Merci, M^{me} Toone. Je vous remercie pour votre présentation.

M^{me} Toone : Merci de m'avoir écoutée.

COUNTY OF RENFREW

The Chair: Our next presentation will be from the county of Renfrew. Good afternoon. Thank you for your patience. We are slightly behind as a result of a couple of groups this afternoon.

Mr Vance Bedore: Thank you very much. It's a pleasure to be here. I heard some comments just before I started on how nice Bobs Lake is. I hail from the county of Renfrew, where they say, "G'day, g'day." We have 90,000 people, about 3,009 square miles, over 300 lakes and five river systems. I understand that last night you came through the county of Renfrew in the fog.

Mr Gerretsen: We saw the best part of it.

Mr Bedore: We would certainly appreciate it if you would like to come back and visit us.

My name is Vance Bedore and I am the director of planning for the county of Renfrew. As you are aware, the corporation of the county of Renfrew represents 36 municipalities in the province of Ontario. Over the past five years, the county has been involved in submissions to the Sewell commission, submissions to the previous government. Our objective has always been to clarify the role of the provincial and municipal involvement in land use planning and to recognize the legislative authority to enable municipal governments to plan for their futures and oversee the planning process.

The county of Renfrew certainly supports the government of Ontario's objective to reform the planning system. We're in support of focusing the planning process on economic recovery within the bounds of environmentally responsive growth and development. We certainly support the government's position to try to streamline the process and cut red tape. We certainly

support the government's position to empower municipalities and recognize the value of municipal diversity, local accountability and municipal autonomy. The county of Renfrew, in reviewing the bill and the draft policy statements, is pleased for the most part with the legislation. I'd like to just set out a few things of concern and issues and support that we'd like to propose to this government.

In terms of greater autonomy for local municipalities, the requirement to "have regard for" provincial policy has been in place for many years prior to Bill 163. This has allowed flexibility. The county of Renfrew, as well as other county governments, has not abused "shall have regard for" and we certainly see the return to "shall have regard for" provision will enhance municipal autonomy, provide for a more responsive planning approval system and provide for balance to what has often been conflicting provincial policy interest. So, certainly we support this government's return to "shall have regard for."

The county of Renfrew is also pleased with the empowerment to counties. The county is pleased to see counties with approved official plans will be given subdivision approval and that counties with official plans adopted under the new provincial policies will be given the authority to approve local official plans. Both of these authorities have been granted to regions, and certainly we want to be on the same footing as regions and appreciate this government's position on that.

Apartments in housing. The county of Renfrew supports the government's amendment to the Planning Act which restores municipalities' authority to establish where new second units in houses may be permitted. It is more appropriate that this issue be addressed through local land use planning documents, and certainly we support strongly the government's position.

Changes to the Development Charges Act. A key to successfully achieving growth for a municipality through land use planning is to have the ability to adequately finance the system. The county of Renfrew is of the opinion that provincial approval of development charges bylaws is unwarranted and unacceptable. We certainly see it should stay with the municipality on that particular aspect.

On minor variances, you'll see in the presentation that we recognize there has been a change. The county has left that really up to the local municipalities and hasn't taken a position on minor variances in their presentation. They, in reading it, found it confusing, and there may be a more appropriate way to deal with making it more elementary and more understandable legislation, but certainly we haven't commented on the approach.

Mandatory contents of official plans. The county of Renfrew is very pleased to see the regulatory provision for prescribing the mandatory contents of official plans to be deleted from the legislation. The province has other, more appropriate ways to influence how provincial policy interests are reflected. Certainly we consider this action of the government as trust of municipal governments and recognition of the ability of professional planning staff who work for them to determine the contents of their plans. We're very pleased to see that occur.

In terms of streamlining the planning process, we would like to see deeming of a plan or plan amendment.

The county strongly believes that there is a significant opportunity for streamlining, by reinstating the deeming provision, with the inclusion of provincial policies within an approved official plan or official plan amendment. The document should be deemed to "have regard to" provincial policy, and if municipalities are in any subsequent action—approvals of plans of subdivisions, minor variances, consents—they don't have to go back through the test of "having regard to" provincial policy.

If you have a plan approved under the bill and the government approves that official plan, then that should be the end of it. That certainly would streamline the process. Now you go through pages and pages of documentation to prove that you are consistent with provincial policy under the existing system. I think that's unnecessary if you have a plan that has had "regard for" and that has been approved by the government, simple as that. I've indicated some of the provisions that could be in the act to clarify that.

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The order exemption process: Probably the two most significant changes to the legislation are under the proposed change to the manner by which official plans and official plan amendments are approved. The first process is similar to the existing process except that you have a direct right of appeal to the Ontario Municipal Board, which we support. You don't go through the referral process and maybe months or years before it actually gets to the board, so we support that wholeheartedly.

The second one is the order exemption process. We see the second process will likely occur where there's strong upper-tier plans. The ministry may exempt an upper-tier municipality from provincial approval of its official plan amendments and will give the upper tier the authority to exempt or partially exempt its lower tiers. This process will recognize the diversity within municipalities and will further demonstrate that the province does not have to oversee or approve every municipal planning action or decision. The order exemption approach has the real potential, in our view, to streamline the process only if the minister exercises his or her authority to limit the types of official plan amendments that would require ministerial approval.

The county of Renfrew certainly supports the province's intention to move in the direction of getting out of the approval process.

Other streamlining matters: We support the government's position to go to a one-ministry, one-window approach. This change will eliminate ministries articulating contrary positions at the Ontario Municipal Board, in our experience, and will allow the province to speak with one voice on a unified position.

If you go to page 6 of the brief, there are just some comments on the draft policy statement. I realize that you're dealing with the bill today, but just a few things.

Certainly the county of Renfrew is very pleased with the direction you've taken on the policy statements. We recognize that you have narrowed it to what we consider provincial interest and not local interest, so we're certainly pleased with that. We've made some suggestions in the brief for some changes to it. There are some policies that are prescriptive in nature. You really want to look at

what the desired end result is. You don't want to tell municipalities how to get there. We'd like you to keep that in mind when you're looking at the policy statements.

Certainly in terms of the policy statements under natural heritage, where you recognize the distinction on the Canadian Shield and provide some flexibility, the county of Renfrew is very pleased with the natural heritage policies and we certainly support this government in the policy statements.

One thing I'd like, if I could, to impress upon this committee is guidelines, if I could turn you to page 7 of the brief under (e), "Implementation Guidelines." Reference to the implementation guidelines within part IV, as far as we're concerned, must be removed.

As this government is aware, the existing 700 pages of guidelines issued subsequent to Bill 163 under the NDP government were to be advisory only, and they state in every guideline that they're supposed to be advisory only. In practice—and I can speak in practice for our county, and I represent one of the county planners in Ontario, and the other 26 counties and the other 17 county planning directors are of the same opinion; we've met on it—provincial approval authorities have interpreted the guidelines as either an extension of the comprehensive policy statements or administrative policies which must be adhered to by upper- and lower-tier governments.

If guidelines under the new provincial policy statements are interpreted and applied as they have been in the past, this will reduce the effectiveness of a policy-led system. It'll hamper innovative planning approaches and will detract from the "shall have regard" provision. If you're going back from "being consistent with" to "shall have regard for" and you have 700 pages of guidelines that are considered administrative policy, where do you stand in terms of "shall have regard for"?

The more logical approach is to have AMO establish, with the assistance of the provincial government, a best practices compendium. AMO, representing 780 municipalities or so, is certainly in a good position to put that best practices together; and get rid of all reference to the implementation guidelines in the policy statements.

I think, lastly, we are of the opinion that there shouldn't have been definitions at all in the policy statements, they should stand on their own, but if there are definitions, then reference to the implementation guidelines should be deleted.

I'm open for any questions.

The Chair: Thank you very much. We have just under three minutes per caucus for questioning. This time it will commence with the government. I'm sorry. No, we did that last time, so the questioning will commence with the official opposition.

Mr Gerretsen: Getting back to the early part of your presentation, where you state on page 3 that the provincial policy guidelines should apply until a municipality has an official plan and then in effect they should back off and the official plan should stand on its own, what you're really talking about there is a set of protocol documents, or guidelines, call it what you like, where sort of everybody knows exactly what the rules of the game are anywhere along the line, before a municipality has an

official plan, once it has an official plan, and also whatever the interest of the various ministries are from time to time.

Mr Bedore: I don't really understand the question. All I can suggest is that what we're saying is that until you have an official plan which is approved under the new policy framework, then the guiding document is the provincial policies. As an example, our county doesn't have a county plan and I would be hopeful that we would be looking at it in the near future. If we prepared a county plan after Bill 20 was in place and the policy statements were in place and the government of Ontario approved that county plan, then it "has regard for" the policy statements. It's in line with the policy statements, and then when we have a plan of subdivision come in to approval to our office, we don't have to go back through the checklist of the provincial policies to see that it actually adheres to them. And that's what we're saying. That will really streamline the process as far as we're concerned, and the development industry and people coming in. I think it's necessary.

Mr Gerretsen: Do you think at that point in time there should still be a public meeting on the subdivision?

Mr Bedore: We didn't address it in our presentation, but you're establishing the principle of development through the official plan and through the zoning bylaw process, and that's where you have your public meetings. In terms of having a public meeting at the subdivision stage, through my experience, I think it's unnecessary.

Mr Gerretsen: How detailed do your rezoning plans have to be in your application in your county?

Mr Bedore: When we do an advertisement for a rezoning specifically for a plan of subdivision, we will give the—

Mr Gerretsen: No, no, no. You see, you're mixing the two now. My question to you is, how detailed does a rezoning application have to be before a plan of subdivision is actually approved? In other words, to what extent is the public out there aware as to what is actually being proposed for that piece of land?

Mr Bedore: Usually as a condition of approval for a plan of subdivision, you require a rezoning on that property. When you go through the rezoning process, you must detail in the public notice that it is, for example, a 36 plan of subdivision, the exact location and everything else. So you've already had the public meeting and the public have an opportunity to speak to it.

Mr Gerretsen: In other words, what you basically do is you do the rezoning and the plan of subdivision at the same time.

Mr Bedore: Correct.

Mr Gerretsen: Well, in that case, of course you only need one public meeting.

Mr Bedore: There's no need to have a meeting on a plan of subdivision.

Mr Christopherson: Thank you for your presentation.

Mr Bedore: Thank you for having me.

Mr Christopherson: On page 1, when you talk about the change from "consistent with" to "have regard to," you state in your submission that "Our county has never been of the view that to 'have regard for' provincial policy meant we would read provincial policy and then

totally ignore it." And I respect that. I have no reason to believe that you would approach it otherwise. However, there's no guarantee that other municipalities may take the same approach or that even yours would continue to if it didn't have you and others there to see that through. Do you not think that there's a legitimate argument that the provincial government has a responsibility to ensure that no municipality takes the approach of reading it and then ignoring it and that the only way they can truly do that is to have policies that are clear, protective and then have legislation that ties municipalities to those policies?

Mr Bedore: I think the "have regard for" provision is appropriate, which provides the flexibility. The province has the upper hand in terms of the approval of the planning documents and has recourse to the Ontario Municipal Board through the one-window approach. We have used, before the NDP government—"have regard for" has been around for years, and certainly municipalities have provided good planning and will continue to provide good planning under the "shall have regard for" provision. It's as simple as that, in my opinion.

Mr Christopherson: Obviously, there are at least some people, and I'm not going to argue whether it's a majority or minority, but obviously there are at least some people who believe differently. Certainly we did, and that's why we brought in the legislation that we did and still stand by that.

My concern is, and I've had an opposition member make the same claim, that while the provincial government's watching it so, there's always the check and balance in there, and I have two concerns about that.

One is that this government has done nothing. They've said a lot but done nothing that shows that they're serious about protecting the environment and protecting the kinds of values that are outlined in the current legislation. That's the first point, and it's hard for you to comment on that one.

1630

The second one, though, is that with the massive—

Mr Bedore: Well—

Mr Christopherson: If I could finish, please.

Mr Bedore: Except I disagree.

Mr Christopherson: With the massive cutbacks that are going on in the provincial government and those that are planned, there's absolutely no assurance that this government's going to leave the government the means by which it would be able to monitor these sorts of things and stay on top of them. I would suggest that if they were really serious about providing those protections, rather than saying, "We'll monitor it and we'll be there if need be"—if that's the case, then why not just leave the legislation in place that says you have to be consistent with and then it's automatic?

Mr Bedore: Just a quick comment: I think this government has provided in rural areas the opportunity for protection of the environment by providing the strength in counties, in our areas, to prepare a county plan and to be on the same footing and to have subdivision approval and local plan approval. That's certainly a carrot for counties to get into planning, and if conservation authorities are moving away from some of the areas and if the Ministry of Natural Resources is having

cutbacks, certainly the residents of the county of Renfrew can protect the integrity of their lake environment, their 300 lakes, by putting forward a county plan to address that issue. The carrots are here in this legislation to allow the counties to do that if the political will is there.

Mr Christopherson: I'm not arguing the point of whether or not it's valuable and progressive to have counties putting in official plans. I suggest that's a good idea. But what I am talking about is we're talking provincial legislation and provincial policies that affect everybody, and we believe very, very strongly that this is just leaving it wide open to potential abuse and that if they're serious about protecting the environment, why take the risk? We think the answer is they clearly aren't that sincere about the protection they talk about and that's why they've opened the process up as far as they have with Bill 20.

Mr Bedore: I think the public are sincere about protecting the environment and the public will ensure that the environment will be protected through upper-tier plans and through local plans.

Mr Christopherson: The public's been here already and said they don't have the means by which they can do that.

Mr Murdoch: Some of the public, not all the public.

Mr Hardeman: Just a quick question, and thank you for your presentation. I wanted to go to page 2, your comments on the Development Charges Act. I'll turn it over to you, Mr Murdoch, in a moment. You say in there that "The county of Renfrew is of the opinion that provincial approval of the development charges bylaws is" inappropriate. Does the county of Renfrew presently have development charges, and recognizing that in Bill 20 it is just a temporary measure to deal with the process or the transfer from, hopefully it will be a reviewed process at the end of this. Do you see that as a problem?

Mr Bedore: The county of Renfrew doesn't have a development charges bylaw at the county level. I guess it's like apartment housing. They just think it's a local issue and allow the local municipalities to determine how they're going to finance this system, recognizing that there is something to come.

Mr Hardeman: Thank you very much. We'll turn it over to Mr Murdoch.

Mr Gerretsen: I think he ought to be allowed to say what he wants to.

Mr Murdoch: Yes, so do I.

Mr Gerretsen: Go ahead. I'll give him all the time he wants.

Mr Murdoch: What you're doing is you're letting these guys and the dippers get away with too much. I mean, the fact is that they don't trust local municipalities; it's the whole issue here. They want to control it all from Queen's Park.

Mr Len Wood: And you want to give all the control to Mike Harris.

Mr Murdoch: You tell me. I bet you in the past when you used to use "to have regard for," the province still has the ability to take anyone to the OMB if it doesn't agree that they've had regard for.

Mr Christopherson: There's no bureaucrats left, and you hate them all anyway.

Mr Murdoch: You can't seem to get it across to the Socialists that this is what's happening. They don't understand. They just want to control it all. They don't believe in local autonomy, and the local people elect these councillors. You guys can't get that through your head. So I think we have to get that here, and you can tell me if I'm not right, that they can take it to the OMB with this new policy.

Mr Bedore: That is correct.

Mr Murdoch: See? We've been trying to get it across to these Socialists for five years and they didn't understand, so now we have to do it this way.

Mr Len Wood: So now you're going to fire all the government employees to make your point.

Mr Murdoch: Well, they don't want to work. They want to go on strike. But that's fine.

Mr Len Wood: Well, you're going to fire 27,000 of them. That's why they're going to go on strike.

Mr Murdoch: This gentleman has more common sense than I've heard for a long time, and I really appreciate what you've brought to us. As I say, you've got a lot of common sense.

Mr Gerretsen: He comes from a great riding.

Mr Murdoch: A good riding. I don't know what he—

Mr Gerretsen: A great riding. Mr Conway has represented that riding to his best ability for 20 years.

Mr Murdoch: I'm glad you brought that up then because your member did bring to this table, and I think his biggest concern about the whole thing was, how did the Palladium get set out where it is. That seemed to be his biggest concern, so I wonder if you have any concerns about how it got out there?

Mr Bedore: Absolutely not.

Mr Murdoch: No, see, there you are. That's what their member brought to us. We really appreciated that comment from your member.

Mr Bedore: That's in the region of Ottawa-Carleton. I have nothing to do with that.

The Chair: Thank you for your presentation.

ROBERT MCKINLEY

The Chair: Our last presentation this afternoon is Mr Robert McKinley. Good afternoon, Mr McKinley.

Mr Robert McKinley: Good afternoon. I'll try and restrict my comments to less than 20 minutes. I know I'm the last presenter of the day. I'm sure you've all heard enough before my speaking.

Mr Gerretsen: It depends what you're going to say.

Mr McKinley: One thing I will do is try and make it a non-partisan presentation.

Mr Hardeman: Much appreciated.

Mr Christopherson: The government won't know what to do with that kind of presentation.

Mr McKinley: I'll try. I may be a little biased, but I'll try. Let me preface my remarks by introducing myself. I am a lawyer and I practise in the field of municipal development law. I've been doing that for about 21 years now and I've seen some things go on over the last 21 years that have, I guess, caused whoever was responsible for inviting me here today to think that I might have an opinion to share with you. Whoever that person is, I'd

like to say thank you, and thank you for the opportunity to speak to you.

I'm sure you've heard over and over again the same comment from different factions about Bill 20, about how some people may be happy with it, other people think it might miss the mark, and I'd like to preface my remarks by saying, generally speaking, I think that the spirit and intent of the bill is proper and it's long overdue.

Mr Christopherson: But?

Mr McKinley: Having said that, though, I'd like to address one particular concern and I've decided to speak about one concern so it's not going to get lost in an overall discussion of a number of the other points in the bill. That concern comes from what I see as a fundamental inadequacy in the process itself.

The Planning Act in Ontario has traditionally governed the relationships between either the province and municipal governments or, more important, land owners and their higher levels of government, and has governed the process in essentially a check-and-balance system. In other words, there was opportunity through public participation to achieve a result, and one side or the other of the issues could always have the matter dealt with later at the Ontario Municipal Board.

The system, and the Ontario Municipal Board process, is designed essentially to deal with conflicts or disputes between land owners on issues of official plan, zoning or subdivision and, in my opinion, generally speaking, the way it functions is adequate. It could be improved upon, but none the less it functions in an adequate way in dealing with that kind of issue.

In my practice where I see the system breaking down and what I'm afraid will happen is that the passage of this bill will simply result in ignoring what to me is an equally important problem. It comes from the emergence in this province of provincial policy documents, some of which are wonderful, some of which are long overdue and some of which are both confusing and disruptive to the process.

When I said I think that the Ontario Municipal Board is an adequate methodology to treat disputes between land owners and the hierarchy or tier of government, there's nothing in the powers of the board or in the legislation or in the bill itself that allows a land owner to address a legitimate issue with the policy people in the Ontario government or in the bureaucracy of the Ontario government. In fact one of the issues that clearly is becoming a serious problem for the land development industry is its inability to get a clear and concise response to concerns that arise from policy conflict.

1640

The problems are not simply land owner problems. As one of the speakers has already alluded to, there are going to be serious changes in the bureaucracy. There are going to be cutbacks of staff. The resources available that are already strained in some levels are going to be cut. The ability to answer questions or to deal in an effective way with questions is going to change. Simply not dealing with them is by itself a method of refusal to answer a question.

I have a serious concern about the lack of a check-and-balance system that the OMB provides to the process

where a municipality is involved not applying to or, in some similar parallel process, not addressing the lack of ability to deal with conflict on policy where there's a dispute, say, between a municipality and a member of the bureaucracy at the provincial level, between a land owner and a bureaucrat dealing with a policy issue or between departments that have conflicting policies. Please don't underestimate the fact that that issue exists.

If I could use an example, and this is a fictional example, you may have a farmer who is farming valuable class 1 agricultural land. Running through his property is a coldwater stream in which trout spawn. His stream is dammed temporarily by a beaver dam and the stream is flooding over, creating fish habitat that is now destroying his ability to crop his entire class 1 agricultural land. So he makes an application to the local conservation authority for a fill permit because his biologist told him the only way he can remove the beavers to protect his agricultural land is to fill in the areas that they've taken for themselves.

He's then told by the conservation authority that the efforts to fill the land are going to cause destruction of fish habitat and affect downstream water quality and that, accordingly, he can't do that without becoming involved in a federal fisheries and oceans compensation program, while at the same time he is precluded from maximizing the use and potential of his class 1 agricultural land.

I've been involved, although I said that's a factual experience, in a circumstance not unlike that, and one of the statements that came from one of the bureaucrats in dealing with the question was: "You know what? We don't have a policy that deals with conflicting policies." I make the point not to belittle anyone. These people are trying to do their job as best they can. They've been handed these documents and told to enforce them. Their problem is that they have a job to do with little discretion to deal with it and they have no ability to change the rules. What I am suggesting to you is that what is fundamentally lacking here is a process where someone who runs into conflict with the interpretation or application of a policy has recourse to have it addressed.

I suppose, knowing that fiscal constraint is a pretty important matter to the government today, to come forward and ask for you to provide an additional service represents some problem. I can only say to you that if you would see fit to give consideration to that kind of opportunity, I would expect the people would be so relieved that they might even be willing to pay a fee for service to allow it to take place and that some kind of a user-pay policy could be implemented.

Whether the system I'm suggesting has to be permanent or whether it has to be temporary, I'm not convinced of. I think it's important today because, as I said, we're going through significant transition, there are bureaucrats who are confused, you've got changing policies. I'm sure you haven't done it exactly right, although I'm not criticizing it, but definitely there needs to be a means to address, as I said, what I call policy conflict.

I said I would focus my comments on one issue because I wanted you to hear that issue. Thank you very much.

The Chair: Thank you, Mr McKinley. We have about three minutes per caucus. We'll start with the third party.

Mr Christopherson: Mr McKinley, thank you very much for the tenor of your approach, given our last hearing of the day, which tends to be as much an opportunity for us to even the scores of the day as it is to listen to the actual presentation. I say that to all of us and I don't cast any aspersions in any particular direction. Thank you very much. I mean that very sincerely.

I'd like to respond with a thoughtful response to the issue you brought forward. I think you raise a legitimate concern that applies not just in planning but to whole hosts of areas where government has a role to play, and we can debate as parties how much of a role there should be. But I think there's a legitimate issue in making sure that laws and procedures and guidelines and policies are understandable, that they're workable and that when you get into the logjams that you've talked about—pardon the pun—there are ways to work yourself through it.

I would suggest to you, however, that our greatest concern is that there are arguably two extremes in this, and one is where you've got so much red tape and so much process and so much bureaucracy that things just grind to a halt and inertia takes over. I would also suggest, though, that our concern, and now I'm being partisan, as New Democrats is that the other extreme of this is to say, looking at the inertia extreme, therefore our answer is to deem all bureaucrats to be evil entities, not as individuals but as a totality; that they're evil, that they need to be reduced, that the best government is smaller government and, if you see a document that has 700 pages or volumes of reference, it must be bad just because it's complex. Therefore the answer is to take a very short-sighted, simplistic answer that just goes after things with two-by-fours and other such methods.

I think that's equally as dangerous for us as a society as the other extreme. We worry that the government has indeed taken that approach and that it sounds to us very much like things being put forward by the Buchanans and the Gingriches of the world, who just seem to believe that there's no role for government and the more they get out of the way and let people go on with their business the better society will be. I just think that's so wrongheaded in terms of providing the kind of balanced, fair, decent society that I think we all want.

I think you've helped pose the question; how we find the answer is sort of the battle that we're having here. But we do very much disagree with the government's opposite and extreme approach that just says pull government out of things and therefore they'll get better. That's just as bad as throwing too much government at a problem, in our opinion. I do again thank you very much for the thoughtful presentation you've made today.

Mr Carr: Thank you very much. I'll be very brief today, because Mr Murdoch wants to follow up too. Your example actually would be funny if it wasn't so serious, and I think that's the—

Mr McKinley: Well, that one cost my client \$5 million.

Mr Carr: Right. And that's the biggest example of why there needs to be change. But I just wanted to pick on what you said about the fee for services, how do you see that working? Can you give us some advice of what you see from having been through the process? Would you like to expand a little bit on that?

Mr McKinley: Yes, I would. In our judicial process now we've needed to streamline some things. Access to judges has been as difficult as access to the Ontario Municipal Board. One of the things that judges do is receive notice of application and they'll do conference call motions and they'll deal with things on a summary basis. Both points of view have an adequate opportunity to prepare material, put it before that person, then a summary decision is made by phone call.

An application for rezoning is supported by a fee; an application for a plan review is supported by a fee. There's no reason in the world why the person, whether it's the department or the individual or the municipality, can't make an application supported by a fee. It's the process that we now use. The implementation of it, as I say, could be done by document with supporting material. The hearing of it doesn't have to be convened in a meeting hall in Renfrew county. It can be done over the phone out of an office at the Ontario Municipal Board or other facility and it needn't be complicated.

Just to address one of the comments that Mr Christopherson made, one of the suggestions I'm making here is as much for the benefit of the employee as it is for the developer. In my experience, we have some fine people who don't know what direction to go in next. They're being pulled and tugged by ideology—some by personal belief, some by lack of personal belief—and they're confused right now. They're worried about political pressure that may cause them the loss of their job; they're worried about not doing what the policies require them to do. So the system I'm suggesting is not simply for the benefit of the development community. It would very much benefit the bureaucrat as well.

Mr Christopherson: I understand that.

Mr Carr: Mr Murdoch wanted to say something.

Mr Murdoch: I'd just like to point out that in this bill we are trying to streamline it a bit with the one-window approach through Municipal Affairs. I think that will be a help. We also in the government have a committee now that's with Frank Sheehan, the member for Lincoln, who's trying to find ways to cut red tape in all areas and aspects of government. Those two things I think will help. It's unfortunate you had to listen to a three-minute rant from a socialist government that would spend \$10 billion for five years every year just so they could beef up the bureaucracy and actually get less services. Thank you.

Mr Christopherson: Way to go, Bill, way to end on a class note.

The Chair: Moving to the official opposition.

Mr Gerretsen: I completely and totally concur with you and I've looked at this from all three sides over the last 20 years and been involved from all three sides. There are two issues here: One is process, which is the Planning Act, which is maybe about 5% of the issue, and the other is the bureaucracy, the policy statements and everything. I don't want to take on the bureaucracy. All these people are all extremely well-meaning individuals. Let's get that straight.

How do you resolve the conflicts between different views on things, different policy statements and that whole thing? That's why I think it's so important for us,

first, to take a look at the policy statements as well and, second, for there to be a protocol established by which you resolve issues between different ministries that may have different involvements in a particular matter.

I couldn't agree with you more. We somehow think that Bill 20 or Bill 163 or whatever came before that are the problems in allowing things to happen. That's not the problem. The problem is how you reconcile all these different views within the various ministries on that. That is both to the benefit of the developer and the general public out there, who are just as confused when a matter takes a year to reach the OMB and nobody really knows who's going to take what position on it, including the various ministries, from the municipal viewpoint, from every viewpoint.

Unfortunately, in this process we've gone through over the last two or three weeks, we haven't been allowed to address that. I'm not blaming the government for that. It is just our own internal process that hasn't allowed us to address that. Until we get that established, a protocol process by which you resolve these things through mediation—and the kind of example that you gave is an excellent one—there's no reason why it shouldn't happen.

From any viewpoint, why should it take a year to get a matter before the OMB when so much work could be done in the meantime to try to resolve the main issues or even the total issue? That is to everyone's advantage, whether you're for something or against it. Until we start addressing that kind of thing, all this is basically just window dressing. We're only dealing with 10% of what it's really all about, and I couldn't agree more with what you've said.

Mr McKinley: The two fundamental problems that the development industry faces today are time and uncertainty.

Mr Gerretsen: Exactly.

Mr McKinley: And those two issues are addressed, to a large extent, by what's been done, but not, in my opinion, at the policy level.

The Chair: Thank you, Mr McKinley. We appreciate your taking the time to make a presentation before us here this afternoon.

Ladies and gentlemen, that being the last item on our agenda this afternoon, the committee stands adjourned until tomorrow morning at 9 o'clock at the Pine Ridge Room in Northumberland Mall.

The committee adjourned at 1654.

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Chair / Président: Gilchrist, Steve (Scarborough East / -Est PC)

Vice-Chair / Vice-Président: Fisher, Barbara (Bruce PC)

*Baird, John R. (Nepean PC)

Carroll, Jack (Chatham-Kent PC)

*Christopherson, David (Hamilton Centre / -Centre ND)

Chudleigh, Ted (Halton North / -Nord PC)

Churley, Marilyn (Riverdale ND)

Duncan, Dwight (Windsor-Walkerville L)

*Fisher, Barbara (Bruce PC)

*Gilchrist, Steve (Scarborough East / -Est PC)

*Hoy, Pat (Essex-Kent L)

*Lalonde, Jean-Marc (Prescott and Russell / Prescott et Russell L)

Maves, Bart (Niagara Falls PC)

*Murdoch, Bill (Grey-Owen Sound PC)

*Ouellette, Jerry J. (Oshawa PC)

Tascona, Joseph (Simcoe Centre / -Centre PC)

**In attendance / présents*

Substitutions present / Membres remplaçants présents:

Carr, Gary (Oakville South / -Sud PC) for Mr Maves

Galt, Doug (Northumberland PC) for Mr Tascona

Gerretsen, John (Kingston and The Islands / Kingston et Les Îles L) for Mr Duncan

Hardeman, Ernie (Oxford PC) for Mr Carroll

Smith, Bruce (Middlesex PC) for Mr Chudleigh

Wood, Len (Cochrane South / -Sud ND) for Ms Churley

Also taking part / Autres participants et participantes:

Chiarelli, Robert (Ottawa West / -Ouest L)

Clerk / Greffier: Arnott, Douglas

Staff / Personnel:

McLellan, Ray, research officer, Legislative Research Service

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ISSN 1180-4378

Legislative Assembly of Ontario

First Session, 36th Parliament

Assemblée législative de l'Ontario

Première session, 36^e législature

Official Report of Debates (Hansard)

Thursday 22 February 1996

Journal des débats (Hansard)

Jeudi 22 février 1996

**Standing committee on
resources development**

**Comité permanent du
développement des ressources**

**Land Use Planning
and Protection Act, 1995**

**Loi de 1995 sur la protection
et l'aménagement du territoire**

Chair: Steve Gilchrist
Clerk: Douglas Arnott

Président : Steve Gilchrist
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LEGISLATIVE ASSEMBLY OF ONTARIO
**STANDING COMMITTEE ON
 RESOURCES DEVELOPMENT**

Thursday 22 February 1996

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO
**COMITÉ PERMANENT DU
 DÉVELOPPEMENT DES RESSOURCES**

Jeudi 22 février 1996

The committee met at 0901 in the Northumberland Mall, Cobourg.

**LAND USE PLANNING
 AND PROTECTION ACT, 1995**

**LOI DE 1995 SUR LA PROTECTION
 ET L'AMÉNAGEMENT DU TERRITOIRE**

Consideration of Bill 20, An Act to promote economic growth and protect the environment by streamlining the land use planning and development system through amendments related to planning, development, municipal and heritage matters / Projet de loi 20, Loi visant à promouvoir la croissance économique et à protéger l'environnement en rationalisant le système d'aménagement et de mise en valeur du territoire au moyen de modifications touchant des questions relatives à l'aménagement, la mise en valeur, les municipalités et le patrimoine.

The Vice-Chair (Mrs Barbara Fisher): Good morning. We are very pleased to be here in Dr Galt's riding, abutting those of some others who sit at this table as well. Steve Gilchrist, who is the Chair of this committee, is not here today; he is attending in the Vice-Chair capacity in another hearing process in Toronto. The reason he has declined to sit at this hearing is that there was a potential perception of a conflict of interest, so as a small business owner in the area he chose not to sit. So you have me for the day, and I hope we can go through the process well.

WILLOW BEACH FIELD NATURALISTS

The Vice-Chair: I call on the first presenter, the Willow Beach Field Naturalists. Presentations will be 20 minutes in duration and the time can be used as you see fit between a presentation and a question-and-answer period.

Mr Bill Wensley: Thank you, Madam Chair. I'd like to be the first person to publicly welcome you and members of the committee to Cobourg. I know you're busy, but I hope you have a chance to see, if not spend time enjoying, the natural beauty of Northumberland county and our town. It's not a particularly nice day to do that, but there's the invitation. We're very grateful to you and the committee for coming to our community.

I am Bill Wensley, the immediate past-chairman of the Willow Beach Field Naturalists and I also chair our wetlands committee.

Our club was formed in 1954 and has a membership of about 180 people, mainly from Northumberland county, including the towns of Cobourg and Port Hope. Our members share an interest in all aspects of natural history

and are committed to the protection of our environment, the conservation of our natural resources and the preservation and enhancement of wildlife habitat. It will probably come, then, as no surprise that my comments will focus on the environmental aspects of the bill.

In so far as the proposed amendments to the Planning Act authorize greater decision-making powers at the local level and simplify and streamline procedures, we are supportive. However, we are concerned about what appears to us to be a weakening of the provincial stance on environmental matters, specifically, the protection of natural areas such as wetlands, and the quality and integrity of ecosystems across the entire province.

Two examples from the proposed legislation will illustrate why we feel this way. The first is that the new subsection 1(2) excludes all provincial ministries except the Ministry of Municipal Affairs and Housing from appealing planning decisions to the Ontario Municipal Board. In addition, subsection 1(4) gives the minister the regulation-making power to exclude other public bodies from the appeal process.

Even though subsection 1(3) permits the minister to make a regulation including other ministries, it is obvious that these proposals remove power from the ministries such as the Ministry of Natural Resources and the Ministry of Environment and Energy, both ministries having a particular responsibility for natural resources and the environment, and subsequently, of course, concentrated in the Ministry of Municipal Affairs and Housing.

The second example of a weakening of the stance on environmental matters is found in the proposed amendment to section 3. Current provisions in this section of the Planning Act require that planning decisions "shall be consistent with policy statements." The proposed amendment would change this wording to "shall have regard to policy statements." Thus, in the exercise of any authority or in providing comments, submissions and advice that affect a planning matter, the minister, various boards, municipalities and other agencies, including the municipal board and Ontario Hydro, need only "have regard to" Provincial Policy Statements and not, as at present, take decisions that are "consistent with" these policy statements.

While on the surface of it, these changes in wording may be passed off as merely semantics, it is symptomatic of what we believe to be a significant shift in emphasis away from a consideration of the environment. Furthermore, I would submit it is not merely semantics. The present wording "be consistent with" carries the interpretation of "constant to the same principle," whereas the proposed "have regard to" conveys the message that the provincial policies are but taken into account in planning

decisions. The former wording is much stronger and puts more emphasis on the policies. We recommend its retention.

"Have regard to" is just not strong enough. I'm reminded of the story about the clause in the will of a deceased millionaire. The family is seated, waiting expectantly as each clause is read by the lawyer, and the lawyer gets to clause 7 and he reads the words of the deceased: "I am advised that I should have regard to my nephew Samuel. 'Hi, Samuel.' And now for clause 8."

Section 3 refers to policy statements. These statements are intended to provide policy direction on matters of provincial interest in land use planning. They are of vital importance in the protection of our environment and wildlife habitat within the context of land use planning.

0910

Our review of the draft provincial policy statement published in December 1995 and released for discussion purposes gives rise to serious concerns. While the draft document extensively addresses development and land use principles, economic growth, and protection of public health, safety and property, it does not provide adequate direction in the areas of natural heritage and environmental protection. It is not our intent today to present a comprehensive critique of the draft policy statement; however, we are compelled to draw attention to one of our concerns.

Our greatest concern has to do with the protection of wetlands. For purposes of this discussion, wetlands can be placed into two broad groups: those that have been identified as provincially significant and those that have not. It is our position that there should be no development and site alteration in any provincially significant wetland, and furthermore, that all planning jurisdictions should be encouraged to protect all other wetlands regardless of size.

Most of the wetlands in southern Ontario have already been destroyed, and the estimates range from 75% to 83%. A few years ago, the citizens of this town stood by in frustration as the former pond and wetland known as Pratt's pond was drained and converted into a golf course. Much of the destruction of wetlands has happened as a result of ignorance of their intrinsic value, but ignorance is no longer an excuse. We now know that wetlands are vital natural phenomena that must be protected if the environment is to be preserved for future generations.

Wetlands—and these include, but not exclusively, marshes, swamps, bogs, fens and shorelines—sustain water quality and quantity through flood and erosion control, filtration, cooling and maintenance of underground water tables. They provide habitat for amphibians, birds, other animals and fish. They resemble rain forests in their ability to produce biomass from solar energy, and in the process produce oxygen. They have resource and aesthetic value.

Which would you prefer for an evening walk: along a quiet, wooded stream or a drainage ditch?

It is unsettling, shocking even, that many people have yet to recognize wetlands as valuable real estate to be preserved in their natural state. Many consider them to be useless unless drained and filled in for some other use, or cheap land to be bought up and converted into a profit.

The result of this loss of wetlands has been lowered water tables, loss of wildlife habitat, decreased recreational opportunities, floods, erosion and a diminishing of peaceful havens for all of us. We're losing these valuable ecosystems at an alarming rate. Every effort, including legislation and policy direction, must be made to stop this loss of a precious natural heritage.

In conclusion, the Willow Beach Field Naturalists are not arguing against economic growth through appropriate development and land use, but we do urge that the focus of this activity be more on environmental protection than presently appears to be the case. Maintaining a healthy environment is vital to rebuilding a healthy economy.

We've summarized our recommendations. There are four. We recommend that:

(1) As a general principle, more emphasis be placed, both through legislation and policy direction, on the preservation of our natural heritage and the environment.

(2) A greater role be given to the Ministry of Natural Resources and the Ministry of Environment and Energy with respect to the land use planning system. We recommend that you re-examine the proposed subsections 1(2), (3) and (4).

(3) We recommend that firmer direction be provided regarding the provincial policy statements by retaining the present wording in section 3 which requires that planning decisions "shall be consistent with policy statements"—consistent with.

(4) That the provincial policy statement on land use planning and development be strengthened with respect to the protection of our natural heritage. Specifically, but not exclusively, this strengthening should take the form of a prohibition of development in all provincially significant wetlands and providing firm policy direction to municipalities regarding the protection of all other wetlands. Thank you.

Mr Doug Galt (Northumberland): Thank you for a very thoughtful and very concise presentation. The first area I'd like to explore a little with you has to do with the one-window approach we're referring to in government; rather than having all the ministries able to appeal, having just the provincial government, to try to simplify it for the public in general. We do not interpret it as a weakening of the Ministry of Environment or a weakening of Natural Resources, but rather a streamlining. Do you see this as a particular problem, the one-window effect, even though the other ministries do have the same amount of clout and can appeal but that it's only coming from one source?

Mr Wensley: Probably I would have to say that if the same consideration is given through the one-window approach that we would normally expect would be given by a ministry such as the Ministry of Natural Resources and/or the Ministry of Environment, then conceptually we don't disagree with that. The difficulty we have at this stage is that we're not absolutely certain of the extent to which those other ministries, which have a real expertise and a heartfelt interest in the environment, do have the input. If you're saying it is the plan that those people have that input, then I, for one, would certainly be very content with that, because I do understand the need to streamline approaches. But by the same token, we don't

want to give up the expertise and the feeling that those ministries obviously have for the environment.

Mr Galt: No problem. The second is in the area of "have regard to" versus "be consistent with." We're being told that local municipalities would like to have a little flexibility to move and have a little more autonomy than to be straitjacketed by this "be consistent with." Do you see local municipalities spoiling our environment when, on unique occasions, they're able to have flexibility?

Mr Wensley: First of all, I can only speak about this municipality. In the last three or four years, since things have started to come together a little and not fall through the cracks so much—I used the example of Pratt's pond because of the sadness that surrounds that. I say this advisedly, even though the Premier has a certain interest in the game of golf, but the wetland that was given up there essentially fell through the cracks. Had we had strong provincial policies that the town could look to and say, "This is the way it's going to be," I don't think that would have happened.

To answer your question, yes, I'm afraid that will happen. Municipalities will in fact say hi and pass right on, and the natural environment will suffer. I don't want to point any fingers anywhere, and I do want to say that the cooperation between our group and the town of Cobourg, in fact among our group, the town of Cobourg and local developers, has been good. We have some examples of that. The Elgin-Densmore development is one, where a centre part of that development around a cold water creek was preserved as the result of a cooperative effort, and I would hope that would prevail across the province.

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Mr Jean-Marc Lalonde (Prescott and Russell): I understand the concern of this gentlemen this morning, especially when you look at section 67 of this proposed act. There would be major concern about the wetland issue. I don't know if everyone understands the importance of wetlands in our province at present. It's bound to disappear more and more, because the developers don't care about wetland; they just want to go ahead with a subdivision and forget all about future generations. Sometimes we refer to wetlands as just a section of water. Sometimes we say there's a disease in the trees, and when we look at it, it's because of a lack of humidity in the area. They're a must and must be kept, but when we look at section 67, it's an amendment so that notices are no longer required to be published for three consecutive weeks. That is scary, very scary.

Also you mentioned "consistent with policy statements." The word "consistent" should stay there. You really gave us a good example of what happened in the will. To your knowledge, with the financial statement that was presented last November, do you feel that conservation authorities are at risk at the present time?

Mr Wensley: Very definitely. It's very sad indeed that conservation authorities have been stripped of much of their authority, if I may use that word. I think it's unfortunate because, as I understand it, flood control is the main issue now that conservation authorities are going to be left with, but so much is related to flood control: tree planting and all these things. In my view, the conservation authorities should be supported.

I'll give an example. In this community, when we first learned that this particular area in town was going to be developed, the conservation authority and the town of Cobourg and our group and others worked with the developers to work out a reasonable plan.

I'm very seriously concerned about the future of not only wetlands but forested areas and all those natural areas that conservation authorities have been protecting over the past 50 years.

Mr Lalonde: Especially with the fact that the conservation authorities have been stripped down by about 40% of their—

Mr Wensley: Exactly.

Mr Gilles Bisson (Cochrane South): First of all, I want to congratulate you. You're probably one of the few people we've heard where you've actually been able to, even pre-Bill 163 by the sound of it, find the compromise that needed to be found between developers, environmentalists and municipalities. That speaks volumes about the group you're working with and the calibre of the people in it if you've been able to do that, because I can certainly assure you that is not the practice across the province. In fact, that is why the Sewell commission, after many months of work, came to the realization that we need to have clear, consistent policy when it comes to how we deal with development in the province, and that municipalities have to be consistent with that. If you don't do that, you've got municipalities applying different standards across the province and not having a good regard for what we need to do in our environment.

The other thing people need to realize is that the reason these policies were brought forward by our government was because not only do we need to have consistent planning across the province, but the society of Ontario has grown to the point that we realized that, once and for all, we need to have regard for the environment in the sense of having consistent policies about how you do your planning, or else we're going to repeat some of the mistakes of the past.

Because you've been involved in development, the first question I'd ask you is, do you think, having a "have regard to" approach, where municipalities are going to do it differently, that developers will actually be before the OMB in larger numbers now? There will not be clear provincial policies and they won't have to be consistent with them, so each municipality will do it differently, so developers will be more driven to go to the OMB and say, "Look what happened down the road. They got away with it. We're not. We want to be treated the same way as the developer down the road."

My second question is broader. To what extent do we say that development is so important, we don't have to have regard for the environment? At what point do you have to balance the interests of the environment against doing economic development through development projects?

Mr Wensley: I haven't really thought too much about the first question, that is, the possibility that there would be more appeals to the OMB by developers, but as you were speaking, it seems probably likely that will happen, based on what you can see would happen in terms of inconsistencies across, because there will be an opportunity to play one off against the other.

Mr Bisson: They're all going to compete downwards to the lower standard.

Mr Wensley: Exactly. As I say, I haven't thought about that, but I can see where that could be a problem.

In the case of the second question, that's a very difficult philosophical question to answer. All I can say, and M. Lalonde mentioned it earlier, is that people do not understand the importance of wetlands to this province and to the world. They just do not understand it. That's something we've got to work at very hard. It's not good enough to buy a piece of wetland property, fill it in, and build houses or something on it. We're trading a natural environment for a strip mall or a doughnut shop, and that's just not acceptable.

The Vice-Chair: Thank you for your presentation.

ENACT NEIGHBOURHOOD

The Vice-Chair: I ask that the ENACT Neighbourhood presenter come forward, please.

Mr Tom Jones: This is my visual aid. I'm not going to table dance. This is a wetland complex.

Mr Bisson: It's not a golf course?

Mr Jones: Not yet. Maybe it could be changed into a golf course later on, but we'll start with this.

The Vice-Chair: Kindly introduce yourself, sir.

Mr Jones: My name's Tom Jones.

Mr Len Wood (Cochrane North): Can you sing?

Mr Jones: Yes, I can sing, I can dance.

What I'm going to do is quickly go through some of the information I have in my brief, and I'm going to leave the balance of my time for questions. I'd like to give half my time to questioning, because I think that is important, and you have the information in front of you to support what I'm going to say.

Good morning. First of all, I'd like to introduce the organization, which is my wife and I. Advanced Concepts Retirement Communities is a sole proprietorship, registered in Ontario for the sole purpose of research and development of low-density residential projects.

These low-density housing clusters, to be developed as infill projects on underutilized sites in existing neighbourhoods, would provide alternative housing choices for the 50-plus group, empty nesters, active retirees and snowbirds.

These residential units, built as link homes or semi-detached homes or row houses, are designed to encourage: elder care; homesharing; granny suites or garden suites; barrier-free housing; aging-in-place opportunities and home occupations or home industries.

These neighbourhood projects, appropriately named ENACT, that is, elder neighbourhoods affordable choice today, will be land-lease community homes, life-lease projects. This is the project I plan on building. This has been in process since 1991; the actual application was made in 1993. A bylaw has been put in place to allow this type of development in the area in which I live. Some people call me a developer. The closest I've got to developing is building that model.

Mr Bisson: You're a model developer.

Mr Jones: Yes. I'm a model developer at this point, but I hope to change that through this committee.

Some of the barriers and the roadblocks I have encountered in the process of trying to get to the point where it can actually be built are the following:

The existing development application process does not facilitate or expedite economic development. It results in overregulation, duplication, unnecessary delays and unreasonable additional costs. The municipality and the commenting agencies view the development application or the developer as a cash cow and utilize the rezoning application process to extract concessions from the property owner or the developer that they would normally not be entitled to. The municipality and the commenting agencies and lobby groups routinely request engineering documents and consultant's reports. The initiation of a report or an engineering document triggers a peer review at the applicant's expense and usually ongoing dialogue between two professionals at the applicant's expense and further delays the approval process.

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The nine provincial ministries that have a hand in planning and development issues are like a series of silos, shut off from one another. Each of the nine ministries tends to protect their own self-interests and often has regulations or policies which conflict with the mandate to create an environment which facilitates economic development.

Some of the recommendations I would make, after having gone through this process for a small residential development, are the following:

Environmental issues: The Ministry of Environment and Energy could be designated as the upper-tier approval authority for all environmental issues and the Ministry of Natural Resources and the conservation authorities as well as the health unit be directed to forward their comments to it on development applications.

Small development: When introducing Bill 163, small residential development was specifically identified as development applications involving five or less residential units. It would be appropriate if all nine ministries could coordinate their efforts and their policies to facilitate and expedite this specific type of development proposal.

The Ontario Municipal Board: Rather than using the Ontario Municipal Board and lawyers to resolve development issues, the province could consider ensuring the provincial facilitator's resources are accessible to the proponent to mediate or arbitrate issues relating to development applications.

The county official plan: At present the four villages and 14 townships in Peterborough county have their own official plans in addition to the county official plan. Each area must underwrite the cost of amendments at specified intervals, which are five years. Each of these entities retains its own planning consultants, its own lawyers, its own engineers, with some choosing to use the resources already available at the county level. It would be advisable to restructure the arrangement so that the 18 official plans were consolidated into a county plan, a special section being allocated to each area's specific policies. It would also be cost-effective to have all planning jurisdictions utilize the resources of the county to process development applications; that is, the planner, the engineer and the lawyer. In the event that the workload on the county resources became intolerable, contracts could be

made with an approved list of professionals instead of increasing employee levels.

Facilitating or expediting small development: Each village and township should be required to set a policy for development applications that clearly defines the process, the fees, the time frames, the documents required, the engineering and consultant's reports and their agreement in principle that the compliance with same by the developer would result in an approval of a development plan.

Fees: A reasonable fee should be set to permit a development application to be brought forward and circulated to the commenting agencies and a number of property owners in the immediate area for public input, and a suggested time frame for doing that is 30 days.

In relation to approvals, the planning committee should be required to meet with the proponent to discuss the application and, after being supplied with comments, give their decision as to whether they will support the development if specific criteria are met. The time frame for that is an additional 30 days.

The application and placing it in a holding zone: If the proponent agrees, a formal application is made, a fee paid and the county planning staff requested to prepare a bylaw which would place the property in a holding zone till the specific criteria have been satisfied. The time frame for that is 30 days. Upon removal of the conditions, the holding provision would be removed and the building permit made available.

At some point someone has to monitor what the municipality does. The municipality should be required to justify the amount of the deposits and the fees requested and the criteria set out to differentiate between small development proposals, low-, medium-, high-density and commercial and industrial development requirements.

Conclusion: The development application presented here represented an opportunity for the township to facilitate a small-scale development proposal on an underutilized site in a small rural community. The benefits to the township would be \$8,000 in tax assessment per year, \$4,000 in parkland dedication fees, \$10,000 in development charges and approximately \$6,000 in building permit fees. This underutilized site, prior to my buying it and putting forth a development proposal, was bringing \$250 in annual tax assessment to the municipality. Under the proposal, developed as you see there, it would bring the township \$28,000 in fees in the first year and \$8,000 in tax assessment each year thereafter. The insistence of the township to apply site plan control to this small infill residential development could add an additional \$30,000 in pre-development costs.

It's my opinion that economic growth and prosperity in Ontario will not take place if the local approval authorities do not support the initiatives being taken by the Progressive Conservative government to streamline the land use planning and development system.

Mr John Gerretsen (Kingston and The Islands): I don't want to make any comments on your development in the sense of obviously we've only heard your side of it and we haven't heard the municipality's side of it, but I think the one thing that you do point out, and it's something that I've been trying to talk about for the last three weeks, is that what is almost more important than what's in the act are the protocols and procedures that are

put into place to make the process work. It always seemed to me that the real time delays in all of these things are the length of time that a planning development and municipal council and different ministries take in dealing with the application, and the kind of time factors we're talking about within the act from a practical viewpoint in most developments aren't followed at all anyway, I think. You've taken, what, two or three years to get to this point?

Mr Jones: The application has actually been two years to the day.

Mr Gerretsen: I guess the point is that if you had applied all the time factors the way they're laid out in the act, whether the old act or the new act, you should have been before the OMB much earlier than that, because people have delayed the process along the way. Either public meetings have been called—for whatever reason, and there may be legitimate reasons for it. But that's been my main concern. It's one thing to talk about the act. It's something totally different in talking about the, well, bureaucratic efficiencies, where I think most of the development hangups are. I wonder if you have any comments on that.

Mr Jones: Yes, I do. We're dealing with process more than we are with actually getting things done. We have too many people involved; the process has become too complicated.

I'll give you an example or an analogy. When I go to the bank for a loan, he gives me a list of the things I'm required to do in order to get that loan.

That doesn't happen with the development process. All through the process, someone is throwing a little hook in there of something else they need after you've supplied one thing, or something that's not sufficient or another report or another thing. We don't have a set policy stating that, "Mr Jones, if you supply us with these things, you get this." What they do is they hold you in abeyance right till the end of the process, which is two years. All during this process, even though I had \$250,000 invested, I couldn't get a decision until two years later whether or not I was going to be able to actually go ahead. There should be a process set in place that says, "If you give us this, you get this." My suggestion is the holding zone.

Mr Gerretsen: I totally agree with you. That's one of the main problems. People have a right to know where they stand, whether you're on one side of the issue or the other side.

Mr Jones: Yes, and what you can do is if you don't like what you're being asked to do at the beginning of the process, you can abandon it without getting in halfway and finding out you can't get out.

Mr Gerretsen: I couldn't agree more, and it would be a lot better if the government would start working on those internal processes and let people know how the decisions are made. That's sort of a murky cloud—with all governments: local governments, provincial governments, former governments, what have you. They're all the same, you know? In a lot of these areas, we just don't know what's happening.

Interjection.

Mr Gerretsen: Well, I would say they are in that respect.

Mr Len Wood: Thank you very much for the time and effort you've put into bringing your display forward. A lot of work went into the model.

We heard the previous presenter very much concerned with the words "in regard to" policies. If those words are put back in—they didn't work before. There was a reason why they were taken out and changed to be "consistent with." Now, with those words going back in, is it your feeling that that would help to speed up your particular project or any other projects in economic development?

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Mr Jones: Yes. This particular site here is a wetland. There is a wetland at the back. It's a class 1 wetland. Under Bill 163 and the restrictive policies that were put in, I was able to prove through the reports that were requested of me and the environmental assessment that had to be done by the Ministry of Natural Resources that that particular site, contrary to what most people say, is the most appropriate place to build the type of thing that I'm building. To put a septic system on that property is the most appropriate place to put a septic system. The hydrological report that came out said it would take, in his estimation, 60 years at least before any contaminant could ever reach the wetland at the back of the property, and that property is only 600 feet deep. The conditions that exist there with the pond and the wetland and the treed area, which we have guaranteed we will leave in place, is the most appropriate use for that wetland complex.

Mr Len Wood: In your particular case, because there is economic development taking place and there are rewards, I guess, involved if the development proceeds. But we've heard Mr Leach make comments to the bar association that the rules and regulations and policies are weighed too heavily to protecting the environment. We've had all kinds of presenters who have come forward saying that somebody out there has to be protecting the environment, the wetlands, the areas, and yet it seems like Mike Harris and Mr Leach are saying that economic development is more important than protecting the environment.

I don't know if you want to comment on that or not, but the concern that some of the presenters have had is that if you manage to successfully get one project through and then find out in a year or two years down the road that there is damage being done, even though the damage is being done, other developers are going to come forward and say, "Well, you let that happen in this area," and it would mushroom all across the province and the concern for wetlands and the environment and the wildlife out there would just go by the wayside and gold would be more important than all of these other issues. It seems like this is what Minister Leach has said in his presentation to the bar association. I just leave it at that, and thank you for your presentation.

Mr Jones: I would like to respond to that, if I might. One of the suggestions and recommendations I've made is that the lead ministry be the Ministry of Environment, not the conservation authority, not the Ministry of Natural Resources. This particular proposal went forward on the basis of an application to the Ministry of Environment for a septic system to service four units. It was approved. However, the Ministry of Natural Resources and the con-

servation authority were the ones I was having the trouble with. They were the ones that were saying it's in a regulated area. The septic system had already been approved. They're not meshing. There's something wrong.

Mr Len Wood: I think you should be telling the Conservatives over there that the Minister of Housing is the wrong ministry to look after that.

Mr Bruce Smith (Middlesex): Thank you for your presentation this morning. From the outset, I think it should be made very clear that the government does recognize the challenges you have presented in terms of addressing the streamlining considerations that you've proposed. Dr Galt alluded to the one-window approach. I guess our view is that that approach is best coordinated by the Ministry of Municipal Affairs and Housing, and the focus will be one of coordination and not control, which has been your experience.

You've appended to this presentation your experience in the approvals process, and admittedly it deals with both local and provincial agencies. How do you feel a one-window approach would have improved your experience in dealing with various planning agencies?

Mr Jones: I would have to agree that there should be a one-window approach and if there were a one-window approach, I don't think we would have had these contradictions arise out of this particular application. What I've tried to do in this process is I've tried to take my development down to meet what I saw coming forth in Bill 163. That's what I saw in Bill 163, good development.

But when I tried and made application to do it, I found that either the message wasn't getting through to all the ministries and to the local level, or maybe I had misinterpreted what they were trying to do. Obviously, there has to be some coordination, like you suggested, a one-window approach would be most appropriate and the applicant be enabled to come forward in an environment like this to talk to all the people involved would be most appropriate, rather than dealing with us from their offices up wherever they are.

Mr Smith: You've to some extent suggested a more centralized planning approach for this area with respect to a county planning function. Perhaps my colleagues opposite will suggest that the bill in some of the changes that we are focusing on, or our attempt to address process, will compromise the product in the longer term. Do you feel in your region that your local municipality has the ability to address the real product issues at the same time as they're addressing the process?

Mr Jones: In replying to that, some counties have been given the opportunity to approve plans of subdivision. They've had to go through some sort of a process in order to get that approval authority. The municipalities haven't had to go through any process in order to get the approval authority; they just work on the basis of what they think this document says and what they tend to do is hold a veto over everybody else. "It doesn't matter what you do, we don't like it, so we're going stall the system on you. We're going to force you to an OMB, we're going to force you to a civil suit," and there's no outlet for you to satisfy that need.

Mr Ernie Hardeman (Oxford): Good morning, sir. I was just wondering whether in your opinion the municipi-

palities are using the policy statements as a reason for what they're saying, or is it their opinion that what they're doing is what they think they need to do.

Mr Jones: Sometimes it's a little bit of both. Sometimes they don't have the vision that someone else has. They don't necessarily interpret the policies that are made at an upper-tier level the way they're supposed to be interpreted. Somehow, someone has to teach them that if this were brought forward at the municipal affairs level and they said: "That's good development, we want it facilitated and expedited. How can we do it?" throughout this process there has not been one person who has encouraged me to do it. They've all put something in the way, some extra cost or some other delay.

Mr Hardeman: In your opinion, under the policy statements that presently exist and the "shall be consistent with" in Bill 163, can this project ever be fully approved?

Mr Jones: It has been approved. At this point in time the bylaw is in place to permit it, but we've got to take it to the next stage, which complicates it more, because now we have to go into site plan control, which is another process, which can be lengthy and costly.

Mr Hardeman: But you are confident that you are going to be able to get this project approved.

Mr Jones: This project will proceed.

The Vice-Chair: We've appreciated your presentation this morning.

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PIGEON LAKE ENVIRONMENTAL ASSOCIATION

The Vice-Chair: I would ask, please, that the presenter from the Pigeon Lake Environmental Association comes forward.

Mr Daniel Kennaley: Thank you. My name's Dan Kennaley and I'm the president of the Pigeon Lake Environmental Association. I'd like to first of all wish everyone a good morning and thank you for the opportunity to talk to the standing committee on resources development about Bill 20.

The Pigeon Lake Environmental Association, otherwise known as PLEA, and we are incorporated, is an organization of approximately 120 lake residents and others who are working towards the protection and improvement of the Pigeon Lake environment. Pigeon Lake is a lake located northwest of here, mostly north, slightly west, about 15 miles long, fairly narrow, perhaps a mile wide at its widest point, fairly extensively developed already.

More specifically, PLEA intends to raise awareness of the problems that the Pigeon Lake environment faces and of the methods that exist to help solve these problems; and secondly, to encourage politicians, regulatory agencies and developers to protect and improve the Pigeon Lake environment by making the environment a priority in their planning.

I'm not going to bore you today with a lot of rhetoric about the need to maintain the environmental safeguards that have been achieved over the last 30 years in Ontario. I would note that those environmental safeguards have been the result of Progressive Conservative, Liberal and NDP governments.

Suffice to say that the environmental safeguards have, I hope, come because today we all have a better appreci-

ation for the interrelationships between elements within the environment—water, soil, air, plants, animals and man—because we have a better appreciation of the interrelationships between the environment and the economy, and because we have a better appreciation of the fact that in the past many economic activities were carried out without acknowledging the costs associated with negative impact on the environment, an environment that is owned by us all.

Instead of a lot of rhetoric, PLEA would like to focus on one serious concern it has with Bill 20. That concern involves the proposal to eliminate the appeal of minor variance applications to the Ontario Municipal Board. This change to the Planning Act was also proposed when Bill 163 was first drafted and PLEA made a similar presentation to this one to the standing committee on administration of justice which reviewed Bill 163. I think the government of the day very wisely decided to leave the ability to appeal minor variances to the OMB alone.

The problem with eliminating such appeals might not exist if minor variances were restricted to things like decks on houses encroaching slightly into rear yard setbacks, or allowing someone to park a boat and trailer on his driveway in his front yard. But minor variances are not confined to these matters. Rather, minor variances have been used to allow new uses in zones where the use is not permitted and even in official plan designations where the use is not permitted. This has occurred in the past. Attached is an OMB report which documents this surprising interpretation of law.

I've only given you one case, but I can assure you that there are many other cases that deal with this same matter—whether or not minor variances can be used to allow new uses in zones where they're not permitted or in official plan designations where they're not permitted. I would note that the particular case that I've given you refers to some of the other cases that have occurred as well. The point being that the ability to allow new uses by minor variances, uses that are not contemplated by a zoning bylaw or official plan, is well established.

PLEA is concerned that local municipal councils, with the final say on minor variances, will use such variances to undermine the environmental protection otherwise afforded by zoning bylaws, the official plans, the Planning Act and the OMB. Eliminate the appeal to the OMB and local municipal councils could permit a motel, marina or commercial cottage resort by way of a minor variance in entirely inappropriate circumstances, but because the final word as to what is appropriate would be left to the local council, neither PLEA nor anyone else would be able to do anything about it. Unfortunately, PLEA's experience with municipal councils suggests they are capable of subverting good land use planning in this manner.

Our recommendation with regard to this matter is a simple one: Leave the appeal of minor variances to the OMB alone. The OMB is well respected for being impartial and for upholding planning policy. If you wanted to give the board more power to dismiss frivolous appeals so as to streamline things, that might be okay, but for the environment's sake and perhaps for the sake of good planning in general, don't eliminate the ability to appeal minor variances.

If you are not persuaded and you decide to eliminate the appeals of minor variances, then I think you have a responsibility to ensure local municipal councils do not abuse minor variances. This might, for instance, be achieved by adding a sentence to subsection 45(1) of the Planning Act that would indicate, "Notwithstanding the generality of the foregoing, a new use not otherwise permitted in a zone or an official plan designation shall not be permitted by way of a minor variance."

I'd like to thank the committee for allowing me to talk to you and I'd be happy to answer any questions.

Mr Len Wood: Thank you very much and congratulations for your work with the environment and coming forward today to make a presentation here.

I made a comment earlier from some of the comments that the present Minister of Municipal Affairs and Housing has said in his speech to the bar association, that policies themselves are weighted too heavily towards protecting the environment. "The way I look at it is that we must move forward as far as economic development and get things done and put less emphasis on the environment." First of all, do you think that's the right direction this Conservative government should be heading in?

Mr Kennaley: I certainly don't have difficulty with the idea of balancing economic development and environmental protection, but I certainly wouldn't want that to be sort of a coverup for the abandoning of the environment in favour of economic development. The two are interrelated and it's important. In many instances, economic development is dependent on a healthy environment and it's important to maintain that healthy environment. I don't want to see the safeguards lost but I do understand the need for economic development to take place.

Mr Len Wood: This is only my second day sitting on the committee and I'm replacing one of my colleagues, but we heard yesterday, and today so far, from other presenters that by changing the wording and going back to existing wording that a lot of the population of Ontario was not happy with "in regard for." "In regard for" basically means that you have a bunch of books on the shelf and you say: "Well, I know what's in them. They're collecting dust there but we'll just ignore that and we'll proceed ahead with economic development and we're not going to be concerned about wetlands, we're not going to be concerned about the wildlife, we're not going to be concerned about the environment. This area needs some economic development and it must be done at all costs. We'll look at the 'regard for' but that's less important than getting this project up and running. Once the project is up and running it'll be an example for every other area across the province." What would be your comments concerning that particular wording, changing it from "in regard for" instead of "consistent with" provincial policies?

Mr Kennaley: I guess it's a bit of a conundrum. On the one hand, whether we use the words "have regard for" or we use the words "be consistent with," I think we all want the policies to be followed.

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I'm sure the people who drafted the legislation considered simply saying, "Thou shalt follow the policies" and "Thou shalt never deviate from the policies," as alternatives to "have regard for" or "be consistent with."

At the same time, the environment, economic development: It's all a very complex situation. There are instances where a particular policy can't be applied in one location in the same manner it can be applied in another location. As much as I might want the words to be, "Thou shalt follow" and "Thou shalt not deviate from," I have to acknowledge there has to be some flexibility within the process.

Whether you use "have regard for" or "be consistent with," as long as everyone understands that generally that's what you're supposed to do and everybody understands that's what the words communicate, I don't know that there's a big problem.

I would certainly point to the Ontario Municipal Board as an important arbitrator in instances where people are obviously not having regard for and not being consistent with, not following policies. The Ontario Municipal Board, hopefully, will be able to put a very quick end to that sort of practice.

Mr Len Wood: When 50% of the funding cut to the municipalities has happened—

The Vice-Chair: Excuse me, Mr Wood, thank you.

Mr Len Wood: Thank you very much.

Mr R. Gary Stewart (Peterborough): Thank you, Dan, for your presentation. Just a couple of things: One of the problems, if I remember correctly, with Pigeon Lake is that there's about five or six or seven official plans around the lake, and unfortunately, there are a lot of variances one with the other. One of the things about Bill 20 is that it is pushing the fact that there should be county official plans; in your particular case up there, I believe Victoria county, Peterborough county and maybe a bit of Haliburton or part of it.

To ask you a first question, do you believe that might help to allow a little bit more consistency in environmental protection around the lake, if there was one plan per county, cross-referenced with the ones around the lake?

Mr Kennaley: The idea of needing to deal with Pigeon Lake, the Pigeon Lake ecosystem, if you will, as a single entity is an important one, so the need to cross-reference one official plan to sort of acknowledge what is happening in the other official plan is an extremely good idea and an important idea.

I don't necessarily have a problem with the idea of local municipalities having their own official plans because in many instances the county official plan may not have sufficient detail in it to do a proper job of planning. If you wanted to sort of boost the county official plan and increase the detail in the official plan, then that might make planning work, but at the moment, I would contend there isn't anything necessarily wrong with the local official plans.

The Harvey township official plan, for instance—Harvey is one of the townships that border on Pigeon Lake—is a good official plan. It's in conformity with the county official plan, as it should be, and it provides more detailed policies that are important in terms of protecting the Pigeon Lake environment.

Mr Stewart: The reason I asked you that was that you appear to be concerned that on minor variances you may have a problem with some of the local municipalities. I

guess you have a lot more confidence than I have in the length of time the OMB can deal with an appeal of an official plan. Unless it is streamlined, I think the idea of an appeal to them for a minor variance—certainly in many other things that's different—could eventually hold it up, whether it be development or an addition to a cottage or whatever, for months and months.

Do you feel there could be another tool that might assist in the appeal process rather than going through to the OMB, and if you did go to the OMB and took that time, that the person who is applying for the amendment should pay the full shot?

Mr Kennaley: What I would be looking for with respect to any planning matter—the point I'm trying to make with respect to minor variances is that sometimes they're not as minor as you might think. Sometimes they can have very important planning implications for a whole lake, and sometimes the planning implications are for a particular individual; to that individual that deck that's going to be encroaching into the rear yard of a neighbour and is going to be 12-feet high may have very serious implications in terms of privacy and protecting privacy. It's not necessarily a small matter. I think an appeal process has to exist.

Whether there's an alternative to the Ontario Municipal Board, I guess there can be, but what needs to be ensured is impartiality and also a proven ability to abide by or uphold planning policies. If you can find another group, another organization, another entity that's able to do that, then maybe you don't need to necessarily have minor variances go to the board.

It seems to me that since you've already got one there and if the problem is that the board is taking too long, I point out that it's been my experience that the Ontario Municipal Board, particularly in this area, has sped up the process lately very greatly and that came about as a result of this area being targeted as one of those special areas for speedup.

The Ontario Municipal Board is operating more quickly and if it needs to be sped up even more, then maybe one way of doing that would be to appoint more board members. It would be perhaps a good investment. I appreciate that cutbacks are occurring in the provincial but perhaps a few additional appointments to the board might fix that particular problem of speeding things up.

Mr Gerretsen: I appreciate your presentation. We totally concur that there should be an appeal to the OMB, and that's coming from a former municipal politician.

But everybody seems to forget on the government side that there are three parties that have an interest in this. There's the applicant, there's the municipality and the general public, and the appeal can come from any one, either way, whether it's to oppose a particular application that's been turned down or to approve it etc. There has to be, at some point in time, an independent arbiter who can deal with the situation if all those three different parties aren't happy with the final result that either a committee of adjustment or a local council comes up with.

It's as simple as that. That's not to say that local municipalities shouldn't make the decision, but if somebody doesn't like it, they should be able to have an independent person deal with that. I totally concur with your notion.

The thing we have suggested is that a minor variance should be dealt with a heck of a lot quicker than an official plan or a rezoning matter. There's nothing wrong with setting up a special panel at the OMB of, let's say, five or six board members on a rotating basis that could be dealing with these appeals in a matter of a month or two after they're made rather than waiting anywhere from nine months to a year that you normally do on OMB matters, so it can be dealt with.

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We've heard a number of comments, and I know you're basically an environmental group, today in which the government members and particularly Dr Galt have said: "Don't worry. We care about the environmental as well." Nobody's going to come here and say they don't care about the environment, whether you're a developer, a politician or whatever, but the proof is in the pudding.

We used to have a document that had, I don't know, 200, 300, 400 pages in it. Now we've got a document that's 21 pages and when you deal with the environment, it talks about development in the wetlands in the area outside of the Canadian Shield and I realize we're—are we just inside the Canadian Shield here?

Mr Kennaley: No, just south of it.

Mr Gerretsen: We're just south of it. It states that development may take place if it can be demonstrated that it will not negatively impact on the natural features or the ecological functions. To my way of thinking, that puts the emphasis in the wrong place. What's your assessment of that? It seems to me it's fairly easy to say or to prove that something doesn't negatively impact, but I suggest maybe we should turn it the other way around and we've got to show that maybe development actually helps the environment. How do you feel about that as an environmental organization?

Mr Kennaley: I would be happy, I suppose, or satisfied with development that did not negatively impact on the natural environment. I actually have a good deal of difficulty with the notion, for instance, that the Ministry of Natural Resources has, about development being okay and being able to negatively impact environment here if the same developer is able to improve the environment someplace else. There's this idea of a tradeoff. In fisheries habitat it comes about quite often that you can destroy this particular part of fisheries habitat if you establish some different fisheries habitat someplace else. I have some difficulty with that particular notion.

Aside from that, I would suggest that I would be satisfied with development that did not negatively impact the natural environment.

Mr Gerretsen: Would you agree with me that what's really required is for everyone, for environmentalists, general public, councils, developers etc, to not only know exactly what's involved, but what the score is in a particular situation, that what really needs to be developed are some fairly good protocol documents so we know what's happening inside ministries on a particular application and so everybody knows what the rules of the game are?

You heard the gentleman immediately before that. He's saying from a factual viewpoint, having worked on the development side of the business, that it is correct that

you satisfy one requirement and they really don't like your development or whatever, and somebody else will come with something else and it just goes on and on and on. People have a right to know where the heck they stand. One of the ways in which you can do this, as far as I'm concerned, is to set out a protocol how these issues are going to be dealt with interministerially, and people know about that protocol. Do you have any comments on that?

Mr Kennaley: I certainly agree with that idea. I should point out that when I'm not speaking on behalf of the Pigeon Lake Environmental Association to a committee of the Legislature, I'm a planning consultant and I do have a lot of private individuals, developers—

Mr Gerretsen: I kind of figured that from your earlier comments.

Mr Kennaley: —who I assist and work with. Too often developers look at "no" as just meaning it's time to try harder. Too often the idea of not knowing—something coming up halfway through the process sometimes is a very legitimate occurrence. Sometimes it's impossible to know everything about an application and everything about a development at the outset and sometimes it's only when you get partway through the process that you become aware of an additional problem or an additional challenge sometimes posed by the natural environment that has to be met.

I think the idea of as much as possible establishing what the rules of the game are up front is a very good idea and a very important idea, but I think everybody has to acknowledge that even despite that, occasionally there are going to be these situations that arise halfway through the process that are going to upset the process to some extent.

The Vice-Chair: Excuse me, we're quite over time right now. I don't mean to be rude, but we should proceed so others have a chance too. Thank you very much for your presentation this morning.

ONTARIO PROPERTY AND ENVIRONMENTAL RIGHTS ALLIANCE

The Vice-Chair: I would ask that the representatives from the Ontario Property and Environmental Rights Alliance come forward, please. Good morning.

Mr Doug Hindson: Good morning, Madam Chair and ladies and gentlemen of the committee. My name is Doug Hindson and I'm here this morning representing the Ontario Property and Environmental Rights Alliance.

The alliance is a group of nine organizations representing about 25,000 persons throughout rural Ontario. We're non-partisan. We believe that the natural environment requires our consideration, requires our stewardship. However, when we do that, we must do so in the context of an appreciation for our property rights.

Back in June 1995, OPERA provided to all members sitting in the House at that time a complete list of the concerns that we have with regard to Bill 163. I might add this morning—it's not in my notes; however, it is our intention to extract all of those concerns and we'll be sending those to the committee later on in the week. I just put you on notice that there will be something else coming.

As a matter of fact, in May of last year we, as part of a survey, wrote to Mike Harris. The question we asked him at that time was whether or not he would repeal Bill 163 if the Conservatives were to take office. He responded to us in June 1995, "A Harris government will repeal Bill 163, streamline the planning process, and will provide municipalities with more autonomy and flexibility in planning decisions."

Eleven members of our organization met with the Honourable Allan Leach last November 20, which was just following the introduction of the Bill 20 revisions. We had a very productive discussion at that time and he invited us to appear here with you this morning, and that's why you see my face at the other end of the table.

However, having done almost a line-by-line and comprehensive review of Bill 20, comparing it to Bill 163 and back to the old Planning Act of 1992, prior to the introduction of those changes, I'm really disappointed to say that we simply cannot back off of our request that this government repeal all aspects of Bill 163, go back to the planning Act as it existed in 1992 and take a much more gradualist approach, one which certainly recognizes the property rights of rural Ontario land owners.

While we can't support Bill 20, I'd like to just very briefly touch on a couple of things that we do have concerns with. Right off the top, it's been mentioned here this morning that there has been discussion around the phrases "consistent with" and "regard to." We find that "regard to"—let's be frank—is ambiguous. Certainly "consistent with" is not ambiguous. However, what we found in reviewing some recent OMB decisions is that the OMB has a tendency, where having regard to a provincial policy happens to be at issue, to treat that in their decision exactly the same as "consistent with."

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We don't believe that this type of arbitrary phrase or statement, as imposed by the policy statements, has any place in planning matters in Ontario. We're concerned as well that the policy statements and the implementation guidelines aren't on the table at the same time. Frankly, it's difficult to have a comprehensive understanding of the impact of all three elements unless we have those before us. I think that's, if I might suggest respectfully to the committee, a shortcoming in this process.

OPERA is concerned as well that if we consider the changes in Bill 20 that confer additional powers on the Minister of Municipal Affairs and Housing, combined with the sweeping powers granted the government in Bill 26 and some of the more disturbing aspects of government land use policy in rural Ontario, these should be of a concern to all those who value our liberties and freedoms.

Ladies and gentlemen, I'm probably going to come at you this morning from a somewhat different perspective. Being from rural Ontario, I have to say that I think most of our planning principles and all the planning takes place from an urban perspective. I ask you to recognize and remember that there are 1.8 million people who live in rural Ontario and who derive their income from working in the rural Ontario economy.

I think as a matter of fact, we've lost our knowledge of democracy and its source of legitimacy. This was eloquently dealt with by John Ralston Saul in last year's

Massey lecture series, which culminated in a book called *The Unconscious Civilization*. For me, reading this particular book really had a tremendous impact, because it showed me where we are making mistakes and where we have backed away from our understanding of democracy in this country.

We're concerned about the shortening of appeal times. We're concerned about the limitation of appeals to those people who either have made presentations to a meeting or have made presentations prior to a final decision being reached in the planning process. We're concerned about the shortening of the appeals period. We don't think that represents a fair or reasonable recognition of how community groups come together to deal with planning issues which arise in the communities and which, after some consideration, demonstrate that they present a problem to the communities.

Lastly, as Mr Kennaley mentioned to you a moment ago, you'll recall that during the consultations on Bill 163—it was finally won as a result of I think a number of people coming before the committee—the minor variances would be put back in as an appealable issue to the OMB. We would urge this government and this committee to look favourably upon that recommendation. As well, we believe that the appeal time frame should also be the same as it was in the last legislation.

Let's back away from Bill 20 and talk about where there are overarching concerns. We believe it's important to explain to this committee why we harbour strong views on Bill 20. Both are intrusive and they're centralist. We are concerned about some administrative practices which are currently being used by some of the ministries across Ontario with respect to the assigning of private property designations that come under the heading of environmental designations.

A growing number of rural Ontarians are concerned about the secretive practices employed by the Ministry of Natural Resources. Since 1992 MNR has applied ANSI designations, for example, to some 2,610 properties representing 150,000 acres in Bruce and Grey counties; Mr Murdoch will be aware of that. As a matter of fact, we have a denial of due process, which I think is a violation of those who believe in freedom and democracy in this country. When MNR writes back to an individual inquiring about how an ANSI could be applied to his land, he's told, frankly, "If you don't like it, go and get an EIS"—an environment impact statement—"and show us why." This throws the burden of proof not on the government but rather on the individual land owner.

In Victoria county, over the last three years, the MNR has been applying wetland designations. I have one here which is attached to the copies you received this morning, on the very bottom. This gentleman owns 550 acres, of which over 450 have been designated as wetlands. You know, I spoke to this fellow and he didn't even know it; he does now and he's mad.

Across Ontario, at least eight designations are being applied to private lands. These include ANSIs, wetlands, wetland habitat, conservation lands, open spaces, heritage lands, endangered species and environmentally sensitive lands. Recent announcements from the Ontario Heritage Foundation cause us to wonder if this is not the next effort of government to interfere with private property

ownership. We wonder if the language that they use isn't in fact Aesopian, thus disguising the real intent of the foundation.

Extensive research conducted by OPERA indicates that there is rather a curious web through which these designations arrive on one's assessment roll. The designations are conducted by MNR or a contractor working on its behalf. Staff frequently trespass across private property; no inquiry, no discussion with the land owner. The results of the property designation are then communicated to MNR, which then in turn sends the information to the Ministry of Municipal Affairs and Housing. Housing then flips the information down to Finance, which then delegates it down to the provincial assessor's office, and bang, you have it on your assessment roll. Does the land owner know? No. We've got some mighty disturbed people across rural Ontario who are now finding that their hands are tied with respect to designations that have shown up on their land.

OPERA indeed supports with enthusiasm the efforts of Conservative backbencher Toby Barrett in his initiative, now before the House, which seeks to protect private property rights for Ontario citizens. Three other jurisdictions in Canada have legislation which protects private property, including Manitoba, Alberta and the Yukon. Ideally, property rights should be enshrined in the Canadian Constitution, in the Charter of Rights and Freedoms. However, provincial legislation in this regard would be a convincing step to indicate this government's intentions towards a citizen's right to own and use private property, rural or otherwise.

While OPERA cannot support Bill 20, what would give us consolation as property owners in rural Ontario would be at least a preamble to the act which dealt positively with the concerns felt by law-abiding citizens, many of whom bear a deep concern for their future as land owners. Such a preamble should affirm the right to own and use private property, with land takings—you'll hear me say "takings" from now on, and what I'm referring to here is either the outright or implied confiscation of property; I'm using a US term. At least, those land takings should be compensated for with just compensation.

At the same time, we ask this government for immediate action—and I repeat, immediate action—to end the placing of designations of this type that I talked about just a moment ago against private property without properly notifying and securing the consent to these actions from the land owner. Further, we ask this government to create an appropriate piece of legislation to safeguard property owners against this type of action by overzealous provincial bureaucrats.

As I come to my conclusion, it's a bit over a page, but I'll try to be brief. Frankly, ladies and gentlemen, with legislation like this making its appearance on our statute books now over the last three or four years, I think we all have to ask ourselves the political motives of this or any other government which condones such actions.

Let me go across to the United States, where we have some specific information and knowledge from people we are in touch with, and direct experience and information down there. In the United States, in 1994, there were 250,000 property takings; 80% of those were from

honest, law-abiding citizens who had done nothing. Their property was confiscated, either by the state or by the employees of the state, and the employees pocketed the proceeds of those confiscations. In some cases, it was land; in a lot of cases, it was personal property.

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There's a tremendous case at the moment in Utah, a land confiscation. Certainly from our perspective as Canadians we would be shocked to understand the details. I'm not going to deal with that here. But if you take a look at it, it's a 25,000-acre ranch that the parks service took cattle from, at gunpoint, and sold. The parks service staff put the money in their pocket, and they're trying to run this man off his land. He was smart: He showed up armed. He showed up armed with a 35mm camera and has it all on film.

We believe every member of this committee, we hope, fully understands that these kinds of actions represent a serious concern. In fact, Bills 163 and 20 are a building block to further substantiate takings through the denial of use, hence rendering a property owner's land worthless. What we do when we do that, ladies and gentlemen, is that we're really confiscating people's savings that they have invested in their land.

Few in this room will have heard of the convention on global biodiversity, the global biodiversity agreement, the GBA, the assessment or Agenda 21. They're part of the United Nations environment program. Their origin lies in the Earth Summit which was held in Rio in 1992. Canada tripped over itself to get in line to sign this piece of paper, which is now international law. Further, Canada, in complicity with the provinces, is now obligated to conform in this country to what that convention states. This is one of the reasons, we believe, that Bill 163 was originally drafted, and we are certainly concerned that Bill 20 contains those building blocks that had been left in the legislation, which is under the UN program.

Ladies and gentlemen, the biggest enemy that we as Canadians have is the United Nations. Many won't perceive that, but I think I could demonstrate that if I had the time, which I won't take this morning.

Members of this committee should be aware that the provinces, including Ontario, have joined the agreement. The GBA and the global biodiversity assessment are merely steps to achieving the globalist goals contained in Agenda 21.

In August of last year, Minister of the Environment Copps introduced the Endangered Species Protection Act. This proposed legislation, mandated by persons not elected in Canada under the force of the United Nations convention on biodiversity, is but the first step in a 40- to 50-year plan to remove virtually all rural property from private ownership and return most of it to wilderness. Are you aware of that? This convention has virtually no value for human life. Are you aware of that?

I won't say any more, other than that the general public is becoming aware very quickly. I'll be attending in March a meeting in the United States which is going to be attended by some of the top political and scientific minds in the United States, developing a strategy to defeat external intrusion into our sovereignty. That's what it is: It's a sellout of our sovereignty. There's little doubt that these bills, Bill 20 following on Bill 63, are simply

building blocks in this larger agenda. We're very concerned about that.

Lastly and finally, without the intervention of those members of this party and this committee, who we presume continue to believe in freedom and liberty, Ontarians remain highly vulnerable. The question OPERA asks of this committee and other members of its governing ranks is this: Do you intend to stand in our defence, in defence of the cherished freedoms and liberties that we have enjoyed as Canadians for more than a century? These freedoms, I think all of us are aware, have been gained and retained through the cost of countless Canadian lives. Am I a patriot? Yes, I am. Would you, then, commit to acquiring a significant understanding of the intended consequences of this legislation and then finally ensure a full, complete, total and absolute repeal of everything that is in Bill 163? Thank you very much.

Mr Bill Murdoch (Grey-Owen Sound): Thanks for coming, Doug. I appreciate it. I just want to point out one thing, that Barb Fisher, our Chair, is from Bruce county, so she'll also understand the problems.

I understand your problems with Bill 20. I think it's a start in the right direction. It may not be what we all want, and I certainly can agree with you on that, but it's a start, and hopefully we can get to some of the values that we all want. But again, it's better than 163.

Mr Gerretsen: The point still is, though, that during the election campaign Mike Harris and the Tories campaigned that they were going to scrap it. We in the Liberal Party didn't say we were going to scrap it, but we were going to make some amendments to it. Not these amendments, but we were going to amend it. But they did not scrap it; you're totally right in that.

Where do you stand on basement apartments, sir, since you're in favour of property rights? Since it's a right now in this province that if you're living in a single-family home that you have the right to have a basement apartment, are you in favour of that property right?

Mr Hindson: I'm coming at this committee not from the perspective of an urban home owner and apartments; I'm talking about our farm community, I'm talking about people who own large acreages. OPERA has not taken a position on that matter.

Mr Gerretsen: You have no personal opinion on that then?

Mr Hindson: I would prefer not to offer a personal opinion. I'll give you a general answer, Mr Gerretsen.

The Vice-Chair: If you could make it very short.

Mr Hindson: I will. I lived in Calgary. We had basement apartments in Calgary, and did they cause a problem? No, they didn't.

Mr Gerretsen: Thank you, at least you're consistent.

Mr Bisson: I would just say this. I took a chance to go through your brief because there's a lot of it that you didn't mention. There are some things in here that I agree with, your general thrust in regard to Bill 26. I haven't got time to get into it.

But the only point I'd want to make is this. I want to be clear: I would not support your proposal. I think it is a step in the wrong direction. I believe that if you believe in planning, you want to have rules that apply to good planning, which means to say that the government does have to play a role. I realize that doesn't sit well with

you, but I think I owe you at least the decency to tell you what our position is.

In regard to Mr Barrett's bill, I would not support that bill because I believe that really is a step in the wrong direction.

Mr Hindson: I think that hardening positions in this are going to be divisive.

The Vice-Chair: Thank you for your presentation.

NORTHUMBERLAND FEDERATION OF AGRICULTURE

The Vice-Chair: I would ask that the representative from the Northumberland Federation of Agriculture come forward, please. Good morning, and welcome to our public hearing process this morning.

Mr John Boughen: Thank you. We're here representing the Northumberland Federation of Agriculture. It has approximately 800 farmer members in Northumberland county. We're part of the Ontario Federation of Agriculture, which covers the whole province.

We have a property, planning and land use committee of the Northumberland federation and some of the members are here today, so I'd like to introduce them: Colin Crews, on my left, Dan MacDonald, Ralph Richards, Sylvester Campbell—Gerben DeJong is not here; he's on holidays—and myself, John Boughen.

I presume you all have a copy of this.

We are very concerned here in Northumberland county in the way planning and land use issues affect us in the agricultural community, and this is the primary reason that a property, planning and land use committee was created in December 1995 as one of the many committees in the Northumberland Federation of Agriculture, to assist the agricultural rural community on these issues.

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Agriculture is Ontario's second-largest industry, with one in five jobs being agriculturally related. Agriculture is an important, valuable industry for the people of Ontario, with tremendous growth potential in many areas of food production. We must have the best policies and planning available to ensure a continuing production of food products rated as the best quality and price in the world.

While not being formally trained in planning or governmental policy-making, we are well aware of what it's like to be on our farms, surrounded by people with different ideas for land use. We know what it's like to hope that our farms will still be around in 20, 50, 100 years. The overall effect of Bill 20 seems to increase the opportunities for development, while at the same time making it difficult for farmers to protect their land and businesses.

The following are points which we do not agree with in the changes from Bill 163 to Bill 20:

(1) Section 3: The change to "have regard to" from the existing "to be consistent with" in regard to provincial policies.

A municipality, when considering a development application, when it would only "have regard to" provincial policies, is a backwards step in the protection of good agricultural land across the province of Ontario. To "have regard to" the protection of good agricultural land

is so much weaker than "being consistent with" the provincial policies, which means the municipality has to follow them.

Some of the reasons why this change to "have regard to" provincial policy won't work satisfactorily are:

(i) It allows for inconsistencies with local municipal politics;

(ii) It will allow these same inconsistencies from one municipality to another;

(iii) It will lead to inconsistencies from one elected municipal council to the next in the same municipality because the local politicians are so much more influenced by a few ratepayers than is a provincial body.

(2) Subsection 8(1): We are wary of the implications of having each municipality devise its own official plans without the areas of greatest concern included in a comprehensive plan which prescribes all major planning issues.

The official plan then becomes a device for any kind of planning the municipality wants it to be, which would be very unfortunate with this change and lead to poor planning decisions.

(3) Section 13 of Bill 20: We are very concerned with the proposed changes in this section, especially as it relates to clause 22(7)(c).

As it is now, legislation provides that official plan amendment applications must have a decision within a six-month period. The amendment in Bill 20 will change this to 90 days, the same time frame now in effect for decisions on rezoning applications.

We do not agree that time frames for various development applications should be reduced. It is often difficult to know all that is going on around us that might affect our farm businesses. Often, we find out rather late. How does one get the time to prepare to object or appeal and at the same time run our farms if time frames are reduced? We need time for mail to be delivered, to consult with neighbours, for thoughts to be gathered on paper so that we can adequately study major changes to official plan amendments.

(4) Section 26 of Bill 20: While recognizing that the Ontario Municipal Board needs to stay clear of minor decision-making, it makes us nervous to think we may not be allowed to appeal a minor variance application. Sometimes even things of a minor nature can have a large impact on our farm businesses. In a rural municipality, reputations and personalities play for and against each other. A municipal council may not be objective in the request for an appeal to the OMB concerning a minor variance.

(5) Section 29 of Bill 20 re public meetings about proposed plans of subdivision. Are no public meetings required?

(6) Section 30 re public meetings in respect to consent for severance applications. Are no public meetings required?

On section 29, our position is that there must be public meetings on proposed plans of subdivision. Our position on section 30 is that there must be public meetings for consent to sever land. How else are we to know of the plans to change our communities? How else are we to decide if these changes threaten our land or our businesses?

(7) Section 1 of Bill 20 says the Ministry of Municipal Affairs will be the only ministry able to appeal to the Ontario Municipal Board. We are strongly opposed to this move. In our situation as farmers, we must have the Ministry of Agriculture, Food and Rural Affairs able to appeal as well to the OMB.

We are losing OMAFRA's powers to comment on development, consents etc on our behalf. They have been a watchdog and a voice with power that protected good agricultural land. It is puzzling to us as farmers how different ministries in the province have differing amounts of power. Our Agriculture, Food and Rural Affairs ministry seems to be continuing to be reduced and deflated at our collective peril, even though agriculture is the second-most-important and valuable industry in Ontario.

(8) The Development Charges Act. With respect to the overall tone of Bill 20 as one that would appear to make development easier, it makes us uncomfortable to know that development charges can be reduced without ministry approval. We would like to point out, with the rewriting of the Development Charges Act, that farm buildings for agricultural use and any agricultural property be exempt from the development charges.

The summary of our positions is:

(1) That the policy of "be consistent with" stay as it is now in Bill 163.

(2) That municipalities must have a comprehensive official plan which addresses all planning issues.

(3) That time frames for various development applications not be reduced.

(4) That minor variance applications can be appealed to the OMB.

(5) That there must be public meetings on proposed plans of subdivisions.

(6) That there must be public meetings for consent to sever land.

(7) That OMAFRA must be able to appeal to the OMB.

(8) That development charges cannot be reduced by a municipality without ministry approval and that no development charges apply to farm buildings and farm land.

In conclusion, agricultural land is a non-renewable resource. To protect this land for the future is an all-important goal. If we continue as in the past to build on our best land, we are being shortsighted. In the future, we don't want to rely on other countries to provide much of our food. To be self-sufficient in our food supply is politically important. Our policies on agriculture land use must reflect this. The tools to strongly enforce these policies must be given to our people at all levels. Bill 20 does little to reassure us that agriculture will be valued and protected. Thank you.

1050

Mr Gerretsen: We agree with all your points, and I'm sure the government members who are farmers especially will take this back to their caucus and amend the bill in accordance with the points indicated herein. We will make sure that happens.

Mr Lalonde: Thank you for your presentation. I understand your concern in the points you've brought to

our attention. They're similar to the agricultural people down in my area.

In (3), you point out that you're against the reduction of time. Would you agree, though, that there should be something spelled out in the new Planning Act that rural areas should have a different time from the organized municipality? When I say "organized," we have to be clear. Regional government, large municipalities have the staff in place—others don't—to notify especially the farmers. I understand you're very busy people at times and the time it takes to get the mail down to your place sometimes doesn't give you enough time to look over and organize within your area. I really feel that reducing from 180 to 90 days is a very short time to notify all the people concerned.

There's another point you spelled out, that there should be no development charge applied to farm buildings and farm land. Would you say it would be acceptable that development charges be chargeable to the home of the farmers?

Mr Boughen: As far as the tax system is concerned, the farmhouse and one acre are treated as any other rural residential house, and of course development charges only apply to building a new residence in the township. We're under the same rules in that case, that if we built a new farmhouse we would be paying development charges.

Mr Lalonde: So this is acceptable on your part.

Mr Boughen: But I want to point out that it's very hard to understand even what it means in Bill 20, and we've only had about two weeks to research this. We're not experts, but we just want to make it clear—I understand the Development Charges Act will be rewritten—that for building a barn or a greenhouse, development charges don't apply.

Mr Bisson: Do they presently apply?

Mr Boughen: Not in our township. I can't speak for across the province.

Mr Lalonde: It isn't clear in Bill 20. I support you 100% on that. There should not be any development charge for farm buildings.

Mr Boughen: There's also another point when we mention farm land. Colin, would you like to elaborate on that?

Mr Colin Crews: There is an incident in our municipality where one municipality is trying to get an agreement to procure water from another, and everybody in between is going to be assessed a charge. There's a lot of agricultural land that this is going to go by. We don't feel that's proper at all. If they are going to hook on to it, we have no problem with it, but they're being forced in this case to hook on to it or to use it.

Mr Len Wood: Thank you very much for an excellent presentation. I agree with a lot of the points you have raised, points (1), (2) and (3) of page 2, and your concern with changing the words back to "have regard to" instead of "be consistent with provincial policy." I was born and raised on a farm myself so I know the importance of farming and agriculture. I think it's wrong for Mike Harris and his group to decide they're going to pave over all of Ontario's farm land and spread the population out into all these areas so that we'll have to import food.

These are some of the things Mike Harris said during his election speech in May: "Don't concentrate people too much in one area. Spread them out around the province." That's the danger, that Bill 20 will allow for the paving over of all the farm land in Ontario. I agree with your concerns.

Mr Bisson: In point (1) on page 2, you say the proposed system would be divisive. Municipal council people, as we know, tend to be pushed in directions by their constituents, sometimes not to the betterment of the community, when it comes to planning issues. I'm trying to be polite.

With Bill 20 saying "have regard to" rather than "be consistent with," my fear is that there will not be clear planning policies that people follow from one municipality to another and we're going to end up with one municipality saying, "We're doing it this way," which might be a lesser standard, and then the developer down the street in another municipality says: "It happened over there. You don't want to let me over here. I'm off to the OMB on an appeal." What we'll do is ratchet down the planning principles in the province to where it'll be less and less. I wonder if you can comment on that.

Mr Crews: Interpretation for the moment is what I'd call it.

Mr Boughen: Colin just said it's interpretation of what your official plan would be. Without consistency in following provincial policies, there are going to be differences from one municipality to another.

Mr Crews: I think a lot of it will come up to interpretation for the moment.

Mr Bisson: By the local council.

Mr Crews: Yes, by the local council, depending on what is before them. If it's pro-development, it'll be interpreted exactly that way.

Mr Bisson: If they don't have clear policy, you're going to be really in a ratchet-down race to the lowest standard.

Mr Crews: Exactly.

Mr Galt: Thank you for the presentation—a lot of good information in that presentation. There's no question that we collectively want to protect environmentally sensitive lands, particularly wetlands. It came up regularly during the campaign, and prior to it at public meetings, and I've received many letters since from farmers concerned about their opportunity to use lands or the potential to use lands in the buffer zone around wetlands. They feel it's been confiscated and taken away from them.

We juggled back and forth between the terms "have regard to" and "be consistent with." I think what it really comes down to is, who pays? Does a farmer have to pay for this buffer zone? The Ontario government doesn't seem to have much money, sitting at \$100 billion in debt. Then there's the naturalists. No question, it should be preserved. Who do you think should be paying and come through with funds to look after these lands?

Mr Boughen: That's a hard question. I guess it's up to us as farmers. We're under rules and regulations, and many of us, if we want to sever a lot, we can't. We abide by that. We abide by the regulations, where we're protecting that land for everyone in Ontario. With wetlands, it would depend on the land owner, on the buffer zone; it would depend on what you want to do.

Would it be a development proposal that takes away profit from him? If the land is continuing to be used as it has been in the past, generally in most cases for farming, then there's no real loss. It would only come to a situation where a land owner would be prevented from doing a certain—even if it was development or, say, in the case of agriculture, in tile draining to better that farm. There could be some grey areas in that.

Wetlands is something we just got into in Hope township since 1993 when it was first introduced into our official plan. Before that, we didn't even know we had wetlands there. Actually, in 1988 I was on a planning advisory committee, and we studied that from the province's coming out with the drafts and the proposal for wetlands. In 1993 all municipalities had to have them in their official plan designations. It was put in, and many land owners didn't even know they had wetlands, and in many cases they really aren't wetlands. I understand that they added some more last year. As a farmer, I haven't even had time to go and study the map. They did have an open house at our township office, but I was too busy. I don't know what's going on.

It's always a question of who loses what. Many of us, as farmers, as I said, are using our farms to farm and not asking for a development proposal, whether it's a severance or whatever. We're quite willing to protect this land for everyone and maybe losing a monetary dollar there at some time along the road, but our family had a chance in the 1950s to sever all the lots up and down our two road frontages and we didn't do it. So isn't this shared responsibility?

1100

Mr Galt: It certainly shouldn't be all on the shoulders of the farmers, anyway.

Mr Crews: Perhaps we should be looking at a more clear-cut definition of just exactly what and where the wetlands are so that everybody knows, rather than just making a more vague planning document and guessing at the municipal level as to just whether it is or it isn't.

Mr Galt: You might be surprised to find what's been defined.

The Vice-Chair: I thank you very much. It's certainly a presentation that we don't have many of, in terms of representation from your group, throughout our hearings to date. Thank you very much.

OSHAWA-DURHAM HOME BUILDERS' ASSOCIATION

The Vice-Chair: I would ask that the Oshawa-Durham Home Builders' Association come forward, please. Good morning and welcome to our hearing process.

Ms Jo Casey: Thank you for having us this morning. I'm Jo Casey, a local developer here in Cobourg. With me is Ron Robinson, the president of the Oshawa-Durham Home Builders' Association, and Bob Annaert, who is also a member and chair of the municipal liaison committee. I'm chair of the Ontario Home Builders' Association land committee on the provincial level.

The home industry has been charged with the task of providing affordable housing for the people of Ontario. This task has a direct relationship with the fairness and efficiency of the planning process, which brings serviced

land to the market so that we can build this housing. Our association has 135 member companies. Our boundaries include Pickering, Ajax, Whitby, Oshawa, Clarington, the rural townships of Scugog, Uxbridge, Brock, the provincial associations of Oshawa, Durham East, Durham West and Durham Centre, and we have representatives from the town of Cobourg.

The Ontario Home Builders' Association has 3,400 members throughout the province. In 1991 there were 658,000 workers in all sections of the industry, which translates into one out of every eight workers. The value of construction in Ontario in 1992 was \$32 billion, representing 12% of the total economic output of the province.

It is important that the standing committee keep in mind the importance of the impacts on this industry, please, when considering the presentation of this association and that of other building and industry associations.

We have been actively involved in the consultation process leading to the amendments of the Planning Act as set out in Bill 20. May I say that the industry is very grateful to the government for moving quickly on the issue of planning reform. The process began when we attended Sewell commission presentations continued in consultation over Bill 163. During presentations to the standing committee on 163, the association presented several areas of concern with the bill that would result in negative impact on the industry. Unfortunately, the previous government did not concur with these concerns and moved forward with the legislation that we have today.

There was such apprehension in the industry with the planning approval process under Bill 163 that the approval authorities were inundated with new development applications—"inundated" as it relates to the 1990s—prior to March 28, 1995, the implementation date. This certainly was an indication that there were concerns that the Planning Act did not live up to the intent of the reform process.

Since coming to power, the government has moved quickly to address many of our concerns. We have worked in consultation with them at the Ontario Home Builders' Association, and the Urban Development Institute has also done a lot of work. The proposals presented in this bill generally follow through with the original intent of planning reform process and as such the implementation of this bill will create an ecosystem planning process that meets the needs of the community, the economy and the environment.

We are very positive in our support of the return to "have regard to" the provincial policy statements. Under objections, we put this forward as a concern with 163. Our biggest concern with "be consistent with" is that it would be too rigid a system and it would be difficult to balance competing provincial interests.

I have some experience in that, in that I sat on the task force that reviewed the guidelines to go along with the policy statement. That's 650 pages of confusion, and a lot of that came out of a concern that to make guidelines when you had a term "be consistent with" was so difficult. For instance, if you have one provincial policy statement that says "be consistent with the needs to

protect the environment" and you have another provincial policy statement that says "the need to produce affordable housing," there's a certain point where you have to work these things out.

The other advantage of "have regard to" is that the courts have precedents on "have regard to," the OMB has precedents on "have regard to," as do the civil servants. When you went to a new term, "be consistent with," there was no precedent, and the 650 pages of guidelines indicate that we who were supposed to be looking at it as the first group could not solve the problem at all. So the clarity of "have regard to" in precedent is very important, and we're very happy with the return to that.

Reduced time frames for processing applications. One of the intents of development reform was to provide streamlining in the planning process. Our association advised the standing committee on Bill 163 that we were in full agreement with this reform. However, we felt that the proposals did not go far enough. The process was in such dire need of streamlining that our past president pointed out that the Second World War was fought in less time than it takes to run a parcel of land through the approval process of Ontario.

Mr Gerretsen: I agree.

Ms Casey: That is a heck of a parallel, ladies and gentlemen, and true.

While Bill 163 introduced a series of time frames for proposing official plan amendments, rezoning and subdivision application, Bill 20 proposes to substantially reduce those time frames. Given the requirements of extensive pre-consultation with the various review agencies, these reduced time frames should allow the approval authority ample time to make a decision.

Regarding elimination of the power to dismiss on the basis of prematurity, the association wholeheartedly concurs with the empowerment of the OMB to deny a hearing on the grounds that the appeal was intended to delay or was frivolous or vexatious. However, we strongly object to the denial of a hearing on the grounds of prematurity. The determination of prematurity is a planning matter and can only be decided by due process, and that fundamental right is being restored in Bill 20. The legislation provides adequate safeguards against development outstripping the ability of municipalities to provide adequate infrastructure. Therefore, the issue of prematurity should be decided by the OMB.

Regarding appeals to the OMB by the province being made only through the Ministry of Municipal Affairs and Housing, we support this one-window approach. Of course, it does not mean that other ministries cannot have their issues taken to the OMB; it merely means that they have to be focused through the Ministry of Municipal Affairs and Housing. This will help streamline the process.

1110

We support the elimination of the requirement for a public meeting on a subdivision application. The reason for this is that you already have public meetings in this regard. Legislation requires public consultation at the official plan or the official plan amendment stage, when major land use issues are decided in a conceptual form. This public consultation process is again used when

changes in zoning on the property are dealt with to define and implement the land uses established in the official plan. A plan of subdivision cannot be processed if the plan does not conform to the official plan—if it doesn't, then it needs an OPA, which requires a public meeting—and the passing of a zoning bylaw, which requires a public meeting, and that is required to implement a plan of subdivision. Both of these planning processes therefore are open to public input, and to introduce a further one is going beyond the public interest and is costly and delaying to the industry.

We have a few concerns with Bill 20 which I'd like to mention to you.

We're concerned with the power of municipalities to prohibit development in environmentally sensitive areas. Bill 163 introduced an amendment to the Planning Act which permitted municipalities to include provisions in their zoning bylaws that would prohibit "all or any use of land" on land that is contaminated; is a sensitive ground-water recharge area; contains a sensitive aquifer; is a significant wildlife habitat, wetland, woodland, ravine, valley or area of natural and scientific interest; is a significant corridor or shoreline of a lake, river or stream; is a significant natural corridor, feature or area; or is the site of a significant archaeological resource. The word "significant" in itself is debatable. Again, we found that when we were trying to do guidelines—an incredible word.

The concern expressed during Bill 163 was that these expanded zoning powers empowered municipalities with the ability to sterilize development on private land with no offsetting right of compensation. The modifications in Bill 20 propose to allow that municipalities will only be permitted to prohibit "any use of land" for the categories of lands noted above, but it is not clear how this results in any change of substance, and the spectre of down-zoning resulting in a sterilization of private land would remain.

We're concerned about third-party appeals to subdivision conditions and amended subdivision conditions. With the implementation of Bill 163, any person can appeal draft plan conditions or revisions of draft plan conditions to the OMB. Bill 20 proposes to retain this provision. While we agree that public participation is necessary in the process, it is the opinion of this association that third-party appeals after draft plan approvals allow for unnecessary public participation that adds delays and costs to the process.

Generally, redline amendments are minor in nature and will not impact on the public in general or the abutting neighbourhood. It is our opinion that third-party appeals will lead to unnecessary requests for appeals, and even if these appeals are deemed frivolous and vexatious, costly delays are already incurred. We suggest that only the applicant be allowed to refer draft plan conditions to the OMB after draft plan approval has been given. Coming up with this contract of draft plan conditions has been a long, debated and very intricate process. It's like a contract. To allow just anyone to start changing the contract is mind-boggling and very fragmenting to the industry.

The requirement to convey land for public transit rights of way we're a little concerned with. This provision was

introduced in Bill 163 and allows municipalities to require as a condition of site plan approval that a land owner convey to the municipality lands for the purpose of a public transit right of way, provided that the right of way was shown or described in the official plan. Bill 20 proposes to retain this provision.

Land required for transit rights of way will generally be greater than lands required for road widening and will have a greater effect on the land owner. Road widenings will generally benefit adjacent lands by providing improved vehicular access, while public transit rights of way will not necessarily provide a direct benefit to adjacent lands.

It is the association's position that public transit rights of way are not analogous to road widenings and therefore they should not be granted through the development process but should be obtained through the expropriation process.

Our last comment is a comment on the development charges amendment as in Bill 20. We most certainly support the introduction of the changes to the Development Charges Act as proposed in Bill 20. It is our understanding that these technical amendments, which indefinitely extend current development charge bylaws, effectively restrict increases to development charges and introduce more accountable financial reporting, are interim measures, pending a fundamental review of the act.

The entire question of financing growth-related capital costs was raised, examined and answered during a boom period of unprecedented proportions. The understanding of the problem and the funding policies that were proposed to deal with it were based on assumptions that are no longer valid in the market that exists today nor the market that we foresee in the foreseeable future, and that's quite a long distance that we perceive as foreseeable.

We welcome the announcement by the minister that the government will introduce the new act in 1996, and we also welcome the minister's statement that the government is looking to going back to the original purpose of the Development Charges Act, which is to pay for hard services only.

That's our presentation. Thank you very much for your time. We'd be happy to answer questions.

Mr Bisson: I guess we don't have enough time to get into all of it, but I would say this in support. I don't support your entire presentation, obviously. Our government was responsible for putting in Bill 163 for all the reasons you're well aware, but I will support one thing.

It seems to me that really what we need to strive for is a clarification of the policies themselves, because one thing I hear through developers, anybody who's involved in the development industry, is that what you really want are clear rules. If you know what the rules are going in and that's clearly enunciated, both in the policies and in the legislation in some way, it makes your job a heck of a lot easier, it makes it clearer for bureaucrats to deal with and clearer I think for all the stakeholders involved and I would support you on that. I wish that the government would go in that direction.

I think, however, there's a problem when you're getting into only "having regard for" those policies,

because it seems to me we should put the emphasis on making the policies clearer, and if they're clearer, I think that makes it better.

The second thing is that the real problem—and it's what Mr Gerretsen has said over and over again—is that it's not so much the act that is a big part of the problem. In all the developments I've been involved with, both in municipal and on the provincial level, you end up with problems in the administration of the approval process, both through the municipality and into the provincial government.

How many times have all of us involved in this had something that you thought was going to be approved? Everything was met, everything was in place, you got verbal sort of approval, you thought everything was going to be fine, but then something pops up in the process that comes back to bite you, and then you're back into the cycle all over again. Then there's the whole question about trying to get the document from one office to the other, from one ministry employee to another. Really, it's the administration process.

I guess the question I have to ask you—because I know that you're responsible for the people you represent, and I know the people you represent in my community of Timmins want to do a good job. They certainly are responsible business owners—

The Vice-Chair: Just ask the question, please.

Mr Bisson: I will get to the question, but I need to set this up.

The Vice-Chair: We're over time already.

Mr Bisson: Okay. The question is that I have to believe that you believe in good planning, and if that is the case, shouldn't it be a question of really making the policies a lot clearer? It seems to me we shouldn't be trying to run ourselves to the lower standard, we should be trying to make clearer standards.

1120

Mr Ron Robinson: I don't think we disagree that clear policy is to everybody's benefit, but does a policy not sometimes direct—say, affordable housing in particular; the biggest concern and the emphasis there is in the metropolitan GTA area—affordable housing as a major attention to some of the more rural communities? If you define it strictly on these terms, then you have that emphasis. Locally, they can deal with it with the "having regard to," but if you detail it too much, you have to be careful.

Mr Bisson: But you'd have to have clear policies is the point that I'm getting at.

Mr Jerry J. Ouellette (Oshawa): Just one comment to the community at large here: If the attending members are an indicator of the interest in the community, then to date this community has overwhelmingly taken a lead.

Certain questioning, presenters and members, would have us think that your interests, when you bring them forward, are going to be—an interest in goals are at the expense of the environment and the bill as it stands now would further that. Can you comment on that, that it's going to be at the expense of the environment for your self-serving goals?

Mr Robinson: No, I don't think this bill in particular is altering—we're still going by environmental protection

acts. We're not trying to get around it, but our biggest benefit we see here is the streamlining. We're quite willing to go with all the protection. We try to deal with it within our subdivisions, try to beautify it. We have no problem with that. But we can't wait, have these undue delays that all of a sudden we're taking five years to get a piece of land out. That home owner has to pay that expense.

Mr Ouellette: Furthering on that then, also, during your all-candidates debate your former president brought out that from time of purchase of a piece of land to somebody actually moving in, there were 120-odd steps. As you brought up in your presentation in the comparison to the Second World War, that was extremely costly and the end consumer is the one who bears the cost. Do you have any ideas of the calculations as to how the changes will save those steps or times?

Mr Robinson: Other than our one item we noted about the elimination of a repeated public meeting, the steps won't change. What it does is it gives some accountability to the time frames that you have to deal with each of the steps. And you can't come up with a study at the end, after reviewing it, that you want an additional study and all of a sudden that's three extra months. That's the biggest item.

Mr Ouellette: One other quick point then. On page 8 you mention, "We suggest that only the applicant be allowed to refer draft plan conditions to the OMB." Who do you think should bear the cost of that?

Mr Robinson: Given the adoption of this bill, the frivolous claims won't be getting that far, so we won't have the costs that we are concerned with. A person puts a stamp on an envelope to the OMB, and we have to incur significant costs to defend. If we're only getting issues to the OMB that are concerns, I believe, as the court systems are now, each party pays their own cost to deal with issues that are dealt by both sides.

The Vice-Chair: Thank you very much. Third party—I mean opposition. Sorry; correction.

Mr Gerretsen: Yes, we are still the opposition.

The Vice-Chair: That you are.

Mr Gerretsen: I guess we finally convinced the NDP that streamlining the process is important, and now all we have to do is convince the government. I've been involved in trying to streamline the process at the local level for the last 20 years.

I would like to congratulate you, by the way—

Interjections.

Mr Gerretsen: Ask the people in my city, folks.

I want to congratulate you, by the way, on being the 1994 provincial local of the year. This is great. I'm a great believer in the home building industry. I think it's one of the two main industries—

Mr Murdoch: Apartments in houses, too.

Mr Gerretsen: That's right—that keeps us going. But would you not agree with me—and I think your comment about the Second World War, the length of time it took that, and to get a project through—that the real time delays are not those that are in the act but are the delays that take place with planning committees and staff, with councils, with different provincial ministries etc, and what we really need is a set of protocol documents showing

exactly what people need and require at various stages along? That would really move the development process along. Because I totally agree, the consumer ultimately ends up paying for all of these delays.

Mr Robinson: Jo can say something, but just for one thing, I still believe, very much so, that you need these time frames. You have to have them defined, and that's the biggest benefit. There's accountability there. And like I said, you put a stamp on an envelope to OMB, whether your claim is frivolous or not, that is, I would say, a one-year delay automatically. None of us can afford that.

Mr Gerretsen: No, but you know as well as I do that when you have a development before a council and you know it's coming your way, you're not, the day after they miss a deadline, going to appeal it to the OMB. You're going to work with that council, right?

Mr Robinson: Right.

Mr Gerretsen: And work with the general public. That's how you get it along when you try to mediate the process.

Mr Robinson: Exactly, and we are finding more responsive—just as you said in your area you are trying to go that way, we're finding all of our municipal officials doing the same thing, and we see everything going in that direction. But this time frame, with MNR and COCA and all these agencies, there is no accountability and they sometimes are going opposite to each other in directions.

Mr Gerretsen: Well, I'm glad to see that Oshawa and Durham are as progressive as Kingston is.

The Vice-Chair: Thank you very much for coming forward this morning to the hearing process.

ONTARIO FEDERATION OF ANGLERS AND HUNTERS

The Vice-Chair: Representatives from the Ontario Federation of Anglers and Hunters, come forward, please. Good morning and welcome to our hearing process.

Dr Terry Quinney: Good morning. My name is Terry Quinney, and I'm from the Ontario Federation of Anglers and Hunters. We thank you very much for the opportunity to appear before you this morning. We understand that your time is very precious and therefore I will not read the presentation in its entirety. I will read some highlights from it. We would ask that you please, at your leisure, though, read it in its entirety.

I think many of the committee members know that the Ontario Federation of Anglers and Hunters is the province's largest and oldest conservation organization, with 74,000 dues-paying individual members and over 500 member clubs.

One of the objectives of the Ontario Federation of Anglers and Hunters is to maintain and enhance fish and wildlife populations and habitats on a local, regional and provincial basis and to promote the conservation and sustainable use of these natural resources by all members of Ontario society.

The OFAH supports and advocates a land use planning system in Ontario that encourages efficient and economical development without damaging or impairing the natural environment and the fish and wildlife habitats that are supported on our land base. A planning framework

where the provincial government sets sound policies, municipal governments make development decisions consistent with these policies and an arbitration board resolves disputes will accomplish this goal of protecting and enhancing the natural environment. Ultimately, we believe that the goal of any sound land use planning system is to provide a sustainable supply of ecosystems, both natural and built, on the landscape, and that that should occur in perpetuity.

The previous government of Ontario attempted to establish such a system but failed in its implementation by setting policies without adequate definition of those specific features that were meant to be conserved and protected on the landscape. For example, municipalities were required to direct development away from significant woodlots but were not given supportable guidelines and methodology to develop a rationale for or to determine the relative significance of those woodlots within a municipal planning area.

The previous government's attempts also failed because the existing implementation approach we believe placed undue emphasis for the protection of natural heritage features on private land owners. Those private land owners have in fact been the historic stewards of woodlots, wetlands, wildlife habitats, corridors etc, and at the time the Ontario Federation of Anglers and Hunters had suggested an alternative implementation approach that would have required municipal planning agencies to create targets, to create objectives for natural heritage protection and enhancement that would be contributed to through development levies on each and every development proposal, or each and every development approval and proposal. In that way, natural heritage features could be protected and enhanced without unduly restricting land use on specific private lands.

1130

Those failures by the previous government, specifically through Bill 163, don't necessarily mean that the overall intent or package of policy statements and related process established by the previous government would not have eventually accomplished the goals and objectives it set out to meet. In other words, we believe the intentions were good ones.

Ministries involved in the development of policy statements and related implementation guidelines have, between 163 and Bill 20 here before us today, been in the process of refining those statements and guidelines, and decision-makers and applicants were starting to become familiar with the revised set of policy statements. We believe, then, that too little time has passed to make accurately a judgement that the 1994 and 1995 changes to legislation, policies and implementation guidelines in these areas were unduly hampering development, while at the same time seeking to protect the natural environment.

With reference to "shall have regard for," one of the major changes to the Planning Act proposed in this Bill 20 is the change in subsections 3(5) and (6) of the act from "shall be consistent with" to "shall have regard for" all policy statements issued by the Minister of Municipal Affairs and Housing. The OFAH considers this proposed change to be a major step backwards. Not only is it vitally important to have a complete set of solid, defend-

able policies, Ontario needs a mechanism that will ensure that these policies will be fully and consistently implemented. The current wording of subsection 3(5) of the act provides the needed strong implementation.

Decision-makers now know that their decisions must be consistent with provincial policies. The proposed change will allow local decision-makers to "have regard for" provincial policies and then make any decision they choose, perhaps contrary to provincial policies, forcing an adversarial confrontation before the Ontario Municipal Board.

The proposed change, if implemented, will return land development in Ontario to the climate of 15 years ago, a time when there were few ground rules and development approval was decided on an ad hoc basis. Developers did not know how much land would be available for development, under what restrictions, but they were willing to use the adversarial process to maximize their return. We believe that under that process, the natural environment suffered. One needs only to look at the number of provincially significant wetlands that were lost under this system to see the failures.

A return to a "shall have regard for" approach will increase confusion, uncertainty, inconsistency, delays in approvals, and is bound to increase the number, cost, length and complexity of OMB hearings. Our federation is therefore strongly opposed to this change. We submit that a strong, clear provincial standard was established which benefited the natural environment and the people of Ontario. The current wording, then, of subsection 3(5) of the act should not be altered.

Regarding rights of appeal, the OFAH here is also greatly concerned with the proposed changes in the wording of the definition section of the Planning Act, amending and limiting the term "public body." Subsection 1(4) of Bill 20 proposes to limit the abilities of all provincial ministries to initiate an OMB review of official plans, zoning bylaws, interim bylaws, minor variances, etc.

Such an amendment could be looked at superficially as an attempt to introduce some sort of one-window approach to formal provincial response to planning applications by concentrating all official provincial responsibilities with the Ministry of Municipal Affairs and Housing. However, the Ministry of Municipal Affairs and Housing does not currently have the expertise in-house to adequately respond to the range of potential concerns that arise when reviewing a planning application.

Our concern here is heightened by the proposed limitation and removal of other provincial ministries from the list of public bodies required to be notified of an Ontario Municipal Board appeal under subsection 17(36) of the current Planning Act. Without formal notification of appeal, that is, a concrete regulatory requirement that functionally serves to keep provincial ministries involved in the appeal, planning applications under appeal will escape notice or fall through the cracks.

On page 4, we address concerns in Bill 20, with reference to opportunities for public involvement and review in the municipal planning process. Numerous sections in Bill 20 will serve, if implemented, to reduce the amount of time allowed for municipal, public and agency review of planning applications. For example, the approval for official plans and their amendments has been

shortened from six months to 90 days. Given the complexity of the issues normally dealt with in official plans and amendments, adequate review and discussion, we believe, is impossible in 90 days. This, coupled with a reduction in the time allowed for filing an appeal to 20 days, makes responsible public review and response nearly impossible.

The end result of the reductions in time allowed for review, notice and appeal periods will be that poorer decisions will be made by planning boards, fewer people will be aware of the decisions made, and more unnecessary appeals will be filed simply to gain more time for analysis and conflict resolution. This is not good planning and the Ontario Federation of Anglers and Hunters remains convinced that the natural environment and the fish and wildlife habitats and populations they support will be severely and adversely affected by the changes.

On page 5, we have some conclusions and recommendations. In the second paragraph we say that the recent changes to Ontario's land use planning system that flowed from the recommendations made by the Commission on Planning and Development Reform in Ontario, that were contained in the previous amendments to the Planning Act and associated comprehensive set of policy statements which came into effect on March 28, 1995, have yet to be fully implemented and evaluated, both in the level of protection of the natural environment and in the effects on the development industry.

This federation was, however, pleased with the level of mandatory consideration afforded to the natural environment in Ontario's land use planning process, and we believed that the land use planning system would finally begin to provide a planned sustainable supply of healthy ecosystems, both on the built side and on the natural side.

The changes proposed in Bill 20 regarding the natural environment won't improve the ability of Ontario's land use planning system to meet this goal, and on that basis do not have the support of the Ontario Federation of Anglers and Hunters and should not be adopted.

Instead, the provincial government remains in the position to improve Ontario's land use planning system to the benefit of developers, planning agencies and the natural environment by revising the present implementation of the existing set of comprehensive policy statements.

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Revisions to the implementation of the existing guidelines to replace no-development zones with quantitative targets for natural heritage feature protection, enhancement and creation will be more acceptable both to private land owners and conservationists in this province. Under such a system a levy could be collected on each development application to establish a municipal stewardship fund from which habitat stewardship, enhancement, rehabilitation and creation projects would be supported.

In this manner, the municipal targets set in the official plan and zoning bylaws would be met. This would distribute the responsibility for natural heritage feature stewardship to each and every development, not just the land owners whose land is designated "environmental protection."

In closing, the Ontario Federation of Anglers and Hunters recognizes that the purpose of development is to supply human habitat, but we ask the government of Ontario not to forget that the natural environment, fish and wildlife habitat, for example, is also human habitat, and that fish and wildlife habitats are in very short supply, particularly in southern Ontario.

This legislation, Bill 20, should be ensuring the supply of fish and wildlife habitats as part of human habitat alongside the development components of human habitat, but it doesn't. Therefore, the Ontario Federation of Anglers and Hunters is asking the government of Ontario to change Bill 20 as we have recommended. We thank you this morning for the opportunity to be here.

Mr Murdoch: Two statements that you made on the subject of "shall have regard for" and "shall be consistent with": You stated, "The OFAH considers this proposed change a major step backwards," and the other one I noticed here is, "The changes proposed in Bill 20 will not improve the ability of Ontario's land use planning system to meet this goal and, on this basis, do not have the support of the OFAH and should not be adopted."

You also state that you have 74,000 individual members and 535 affiliated local clubs. I would like you to tell us how the members and the clubs had their input into this so that you can make those statements for the OFAH.

Dr Quinney: Yes, Mr Murdoch. I can tell you that the policies of the Ontario Federation of Anglers and Hunters are democratically arrived at. With reference specifically to the change to "shall have regard for" from "shall be consistent with" our provincial board of directors, which is made up of elected members from all corners of the province, all of our zones, addressed this issue approximately a year ago and provided that direction for staff at OFAH.

Mr Murdoch: A year ago this bill wasn't formed.

The Vice-Chair: Excuse me, Mr Murdoch. Thank you very much for your question.

Mr Murdoch: My vote was in the mail, I guess.

Mr Gerretsen: I think your presentation clearly shows that it's not just important for a committee like this to look at merely a process document, which is what the Planning Act is, but also at the accompanying policy statements, and you can't really do one without the other. Unfortunately, a committee like this isn't empowered to deal with the policy statements. These sort of appear by magic from the ministry by way of regulations at some point in time.

That's the one message I get out of this, which is very unfortunate because it kind of makes the whole thing look as if something is really happening with a committee like this, but in fact it isn't. Process is one thing; content is something different. A policy statement deals more with the overall content. Any comments on that?

Dr Quinney: Yes, they go hand in hand and what the Ontario Federation of Anglers and Hunters is asking the government is that there be a very strong link between the process in the legislation and those policy statements, a stronger link, and that stronger link would be obtained by changing the wording, for example, from "have regard to" to "be consistent with" those policy statements.

Mr Len Wood: Thank you very much for your presentation. I know we don't have very much time, but I was looking at your saying that it's impossible in 90 days for your organization to be able to respond to changes, that squeezing it down is just too much.

The other area you're saying is that changing the wording is going backwards—"regard to" instead of "consistent with" provincial policy. You are the second large organization that has come forward this morning representing a lot of people in Ontario. I'm not sure if the Tory caucus members—we have nine of them here today—are listening to the recommendations that are being brought forth to this committee, but if they are, we should see some amendments before the legislation gets third and final reading in the Legislature. I'm hoping they are listening to your presentation, because as I said, you're the second group that is representative of large area of the province of Ontario, the agricultural community and now the Ontario Federation of Anglers and Hunters. So I'll leave it at that.

Dr Quinney: My comment would be—

The Vice-Chair: Thank you very much, Mr Wood.

Mr Gerretsen: He can make a comment, surely.

Mr Ouellette: John, are you chairing this committee?

The Vice-Chair: Mr Gerretsen, I'm sorry.

Mr Gerretsen: I'm asking for unanimous consent in order for him to respond.

Interjection: You gave him time to respond to Murdoch.

Interjections.

The Vice-Chair: Excuse me, I don't think this is really meant to be a challenge of whether or not—

Mr Gerretsen: On a point of order: Earlier on you said we had a minute and a half to one of the previous delegations, and you allowed three questions on the other side. There isn't a person in the world who's going to believe that three questions and answers can be given in a minute and a half. This gentleman was asked a question.

Mr Murdoch: Is this a point of information again, like you normally do?

Mr Gerretsen: He represents a large organization. What I'm simply asking is for unanimous consent so that we can hear this gentleman's answer to the question.

The Vice-Chair: Mr Gerretsen, I will ask for unanimous consent. Is there unanimous consent of the committee? It's defeated.

Mr Gerretsen: The government does not want to hear from your organization.

Mr Len Wood: You guys have been listening to Pat Buchanan for too long.

Mr Bisson: On a point of order: I'd like it reported that the government members did not give their consent for approval to allow the member from the Ontario Federation of Anglers and Hunters—

The Vice-Chair: Mr Bisson, excuse me, but that's not a point of order. Everything is recorded in Hansard and I'm sure it will be there.

Mr Bisson: And this is recorded as well.

The Vice-Chair: We have now completed the presentation and I do appreciate your time. We have extended ourselves beyond the 20 minutes and I do appreciate your coming.

Mr Gerretsen: When you don't even allow a person to answer a question, that is totally undemocratic. One of these days you'll learn that.

The Vice-Chair: Excuse me. Order.

Interjection: John, you're the one that shut down the democratic process by refusing to give him time.

The Vice-Chair: Order, please.

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THOMAS WHILLANS

The Vice-Chair: Mr Whillans, come forward please.

Mr Tom Whillans: My name is Tom Whillans. I'm from Peterborough. I'm speaking here as an individual and I'd first of all like to thank you for this opportunity because I feel that this legislation that you're considering affects fundamentally the way that Ontario progresses. It's an important piece of legislation.

I'm making the presentation as an individual who is frustrated and has been frustrated, both personally and in my professional work, by the failure of land use planning in Ontario to protect land owners, to protect neighbourhoods, to protect prime agricultural land and to protect ecological functions. These are essential to the quality of life here in Ontario. I work most of the time these days on natural resource aspects of community economic development. It disappoints me, therefore, to see in the current draft of Bill 20 a lost opportunity. The bill will actually weaken land use planning in Ontario rather than strengthen it.

Let me begin, and I'm really giving some general remarks at the moment, with the title, which I agree is symbolic, but specifically the part of the title that refers to "to promote economic growth and protect the environment by streamlining." This new title is misleading. It suggests that Bill 20 strengthens the environmental content of the planning and development act of 1994. I could not find any other reference to the term "environment" in the bill. Moreover, and more important, and really the meat, is that the link to the environmental content of the policy statements, which I heard raised just a few moments ago, is seriously weakened by the use of "have regard to" instead of "be consistent with."

Bill 20 also appears to be promoting mainly short-term economic benefits, and those benefits to a few individuals, rather than long-term economic benefits, and certainly at the economic expense of a lot of other individuals, most other people. It allows the destruction of a resource base for long-term economic development by encouraging the conversion of land use without adequate time or intervenor resources for study and for fair community consultation, and also by shifting the decision-making authority to a level of government that may indeed be more sensitive to local issues but that generally does not have the technical capability to address basic natural resource issues, let alone provincial needs.

I have some specific concerns about some sections. In section 3, the "have regard to" criterion for exercising authority is troublesome, more because I don't know how it will be interpreted than because I do. On the one hand, I sense that the Ontario Municipal Board, guided by the intent of the act, will consider cases much the same as it would have under the "be consistent with." On the other

hand, a lawyer in front of a local council or a committee of adjustment could use the wording very effectively to argue for destructive development. The council or committee will at best be unable to refuse the proposal with certainty. This should be a special concern because of the devolvement of decision-making power to the local level. The limit on who can appeal minor variances to the OMB is also important here, and the general reluctance of parties to appeal decisions of the OMB because of costs and logistics is also to be considered in this case.

The new wording unquestionably is less clear and, for that reason alone, is likely to result in prolonged hearings rather than streamlining, more appeals, and higher variation among municipalities in interpretation. What we can expect is higher planning costs. We can expect delays. We can expect inequities. These all seem inevitable.

With respect to section 8 and section 4, the proposed changes in the act would leave unclear what should be contained in an official plan. Moreover, what makes this especially dangerous is the power of the minister to delegate powers to a planning board if it has an official plan. I am not in favour of the province specifying all contents of an official plan, but I do feel that the province has core interests that should be addressed in all plans; for example, hazard land, drainage, transportation, groundwater, fish and wildlife issues. These all cut across jurisdictional boundaries and are of provincial concern. It would also seem to be prudent to prevent the reinvention of costly errors from jurisdiction to jurisdiction.

With respect to section 9 and section 13, the time frame for the appeal of an approval decision and the notice of a proposed official plan, 20 days in each case, is unreasonably short. A land owner could be away on a normal-length vacation and return without recourse or without sufficient time to responsibly prepare a submission. The 90-day time frame for council or for a planning board to make a decision on a request for official plan amendment is counter to the basic reasons for having an official plan. Many municipalities have insufficient resources to research, to consult on and to meet over complex issues in 90 days, yet they will have to make decisions that will have complex and far-ranging impacts on their communities. Official plans are extremely important because they allow land owners, or prospective land owners, to anticipate what will be permitted in an area in the future and because they allow land owners to hold municipalities and the province accountable for appropriate management of land. If the anticipatory horizon is only 90 days, if accountability is only 90 days, then key purposes of official planning are indeed in jeopardy.

The time constraints are especially problematic when the long-term nature of the consequences is considered. Why allow the destruction of the food production potential of our successors for the sake of several weeks or months of construction time? Why open the possibility that an aquifer will be contaminated for 2,000 years or that a major tourist attraction will be lost permanently or that a brook trout stream will be dried up permanently because we were unwilling or unable to do our homework within the time frame that was made available? In some cases—and I take as an example of this the protec-

tion of key wildlife habitat—a strong case could be made for information gathering and a delay of a full year.

With respect to section 26, the loss of the automatic right of appeal of the decision of the committee of adjustment is a very serious one. I've seen very little evidence that councils, or for that matter the Ministry of Municipal Affairs, are capable of making such final judgement, and with downsizing, as is happening everywhere, the likelihood is even lower. This is especially problematic if the council is also the committee of adjustment, which the amendments allow. Minor variances can have long-term negative economic and social effects on individuals and on communities and, in spite of being minor, they can be complex. A minor variance can exceed local expertise to examine it and can affect provincial interests. The prospects of a council-driven appeal will be low if the OMB can also bill, as the amendments allow, for the hearing costs.

In conclusion, my strongest concern about Bill 20 is its impatience. Responsible development will neither be prevented nor accelerated by the amendments in the act, but irresponsible development will certainly be enabled. Planning will be reduced to a series of short-term economic and convenience-oriented decisions with the result that development will become haphazard in the sense that no individual or institution will have an overview spatially or through time of the land use in the municipality, and therefore will not be able to control it effectively. In the process, we will have a type of growth that will have no significant long-term benefit in contrast to its long-term negative impacts. Renewable natural resources will have been rendered non-renewable, communities downgraded and choices that our offspring would have liked to have made will no longer be feasible. I hope that the standing committee will intervene and prevent this from occurring. Thank you.

Mr Gerretsen: We totally concur with you as far as the committee of adjustment appeal for minor variances is concerned. I'm a strong believer in municipal government and everything that's associated with it. However, there are times when the interests of the council, the general public and an applicant cannot be reconciled, and then the final appeal ought to be to an independent agency or board like the Ontario Municipal Board.

I'm interested, though, in speeding things along as well. I've seen developments that have sometimes taken years to bring on stream that shouldn't have because of what I regard as basically administrative foulups or people simply not willing to make a decision or a recommendation forward etc, because of interministerial problems or intercouncil problems etc. I'm coming back to your official plan situation. I understand that in some situations 90 days may be too short a period of time because of studies that are frequently done by councils, independent studies where the councillors or the planning staff don't have the capacity to do it. Quite often if you're dealing with a large area of land etc, whether it's urban or rural, it may very well take more than 90 days. There are other cases, however, where it makes eminent good sense to just about everybody involved in that process that a piece of land ought to be brought on for development a lot quicker. One could rightly say in a

situation like that, why should it take 180 days when everybody agrees that with the way the municipality has developed it, that particular kind of development should now take place? Where do we draw that line that yes, in some situations we're dealing with sensitive land, maybe a much longer period of time is required before you change the OP, but in other cases it should come on stream quicker. Have you got any suggestions in that regard?

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Mr Whillans: First of all, I agree with you that there are instances, and many of them, where development could proceed very quickly. If it was possible to get all-party agreement before 90 days even, I wouldn't have any problem with that going ahead. On the other hand, if you can't get all-party agreement, then it seems to me getting all parties to agree to a schedule would be a first step, where we'd say that after a certain point in time a decision will be made, and that would vary from—

Mr Gerretsen: Do you believe in a mediation process in that regard?

Mr Whillans: Yes, that could help. That's a useful approach.

Mr Gerretsen: I'm sorry; I cut you off there. Is there anything else you were going to say?

Mr Whillans: That's fine.

Mr Gerretsen: I'll yield whatever time I've got.

Mr Bisson: On a follow-up of that, there's some appeal to going to a mediation process, but how you do that in planning I think is a little bit to be wondered.

I want to come back to the point that you make in regard to the title of the act, because I think you've hit the nail on the head here. In short, the government is saying that through this bill it wants to promote economic growth, and that leads us to believe that it wants to return back to what was termed "the good old days" where development happened as need be so that developers and people with the want and the ability to develop would go out and do that for the good of the economy. The problem with that is, I think there's all kinds of examples in the early days of planning in the province of Ontario—and I would say the lack of planning; probably none whatsoever—we've got all kinds of examples about how construction was done with no regard for the environment, no regard for people in regard to how the development interacted with people. We have all kinds of examples to show us why we need planning.

The question I have to you is a simple one. I think we can all agree—all three parties in the House and most of the public—we need to do what we can in order to promote economic development because that leads to employment and leads to the creation of wealth. But at what point does that supersede the need to protect our environment from an environmental perspective—and at the same time at what point do we allow economic development to go ahead?—does that interfere with our ability to interact with our communities in regard to the development? I don't think anybody's given an answer to that one yet.

Mr Whillans: I live in Peterborough and do a lot of work around the Kawartha. The Kawartha lakes and the whole Trent-Severn waterway are very important as

tourism meccas. Like a lot of Canada, they represent an economy that's based on natural resources. I don't separate environment and economics; they're not separate things here.

Mr Bisson: I'm not suggesting they are.

Mr Whillans: No, no, and I wasn't trying to infer that you were, but I think that you have to consider them not as one versus the other but in terms of the type of economic development that might occur. To me, if you have a resource-based economy, it's crazy to destroy that resource and, in the case of, say, water quality, allow decisions to be made on which haven't had the proper background work done to identify what the problems would be in terms of water quality. That's going to undermine the resource base. There's no simple answer to what you're putting forward.

Mr Bisson: No, I recognize that.

Mr Whillans: It's a problem, and certainly one of the ways of solving it is to have a full consultation of parties that might be affected, to have somebody somehow thinking about what people in the future might want to do with an area. It seems to me the province has to think about that very, very carefully and to have economic development when it occurs, to not be externalizing costs to other sectors of society and, by inference, through the environment to—

Mr Bisson: I would just agree that we need to try to find that balance. I think one of the things we should really get into a debate of is how planning is done overall and how the approvals process works. I agree again with our opposition critic here that we need to figure out how we can make the system work better, and maybe what we should be looking at is district-wide planning boards or region-wide planning boards, rather than leaving them just at the municipal level, with one system of appeal where there are clear guidelines and policies that people could work towards. I think that way it might clarify some of those issues.

Mr Whillans: I agree with that. I think the idea of a regional planning body is very attractive.

Mr Stewart: Two things kind of worry me about what you're talking about: One is the thought of short-term economic benefits or growth and the other is haphazard development. In most OPs, certainly at the county level, they establish settlement areas and so on and so forth, and in fact many of the municipalities do as well, which I believe puts development where it should be. Do you not feel that the municipalities should have that right to establish settlement areas and developments within their own municipalities? What's happened in the past is that we tend to study things to death. In fact, we're now doing studies on top of studies. Where do we stop on this thing? Do you not think that the municipality, which is the closest to the people, does not know anything? I think they do. It seems that in the past we've always had to have direction from Queen's Park and the feds. I believe that your municipal politicians and planners probably have more going for them on knowing what's needed and required and should be developed in their own areas than they do at Queen's Park or Ottawa.

Mr Whillans: I recognize your history in municipal politics, Gary.

Mr Stewart: I wasn't trying to get into that, sir, at all. But it's a concern to me that these guys up there know it all, yet here we in the municipality, who have lived in it and have been involved with it for many, many years, don't seem to know anything. That concerns me.

Interjections.

Mr Stewart: Please let the gentleman answer.

Mr Whillans: I'm not saying it should be one or the other; I'm saying there should be information coming from both ends. In fact, I said very clearly that I thought that municipalities are more sensitive to local needs and so on, but they don't have the capability. Whether or not they have the intelligence is one thing, but they don't have the capability, the training, the background to make judgement on complex environmental issues. They just don't. They don't have the people on staff and they're getting rid of them.

Mr Stewart: We've got some pretty good people in the county and the city in planning departments who have made some, I think, reasonably good decisions and, again, are very concentrated in that area, rather than it being done from totally outside agencies. I guess that's my concern.

Mr Whillans: That's your opinion.

Mr Stewart: Yes, that's appreciated.

The Vice-Chair: There's about one minute left, if anybody has a question.

Mr Gerretsen: Could we bring the other gentleman back?

The Vice-Chair: Hearing none, I would like to thank you very much for coming before us this morning. We do appreciate your participation.

We have now completed this morning's schedule and I would like to move a recess until we resume at 1:20 this afternoon. Thank you very much.

The committee recessed from 1208 to 1321.

The Vice-Chair: Good afternoon. Welcome, all those in the audience, to our hearing process. We're very glad to have you attend our meeting, especially in a small community. It's an honour and a privilege to meet with constituents and those representing other groups.

TOWN OF CAMPBELLFORD

The Vice-Chair: We'd like to start this afternoon with representatives from the town of Campbellford, if Mr Peters would come forward, please.

Mr Jim Peters: Thank you. I've got a brief presentation and then I'm available for any questions the committee would like to ask me. My name's Jim Peters; I'm the planning coordinator for the town of Campbellford. We're a municipality of about 3,500 people in the northeast corner of Northumberland county. Although we're fairly concentrated, we do service an area of about 8,000 to 10,000 in the municipalities around us with the hospital in Campbellford, an OPP detachment and things of that nature.

I've reviewed Bill 20 a number of times over the last few weeks. On Tuesday night I spent the evening with my council going over it, and what I have to tell you today represents what came out of those discussions.

Just a little bit more about Campbellford, to let you know that certainly as a small town we're not facing the

same situations that you hear about in the greater Toronto area or even in the town of Cobourg, but currently we're dealing with two developers who want to do two 40-unit subdivisions. We're looking at major redevelopment along the waterfront. The Trent River bisects the town, and in the downtown area where the waterfront is, we're looking at probably new condominiums and combinations of residential and commercial development. We're looking at potential big-box retail, which in Campbellford doesn't mean hundreds of thousands of square feet but means 30,000 to 50,000 square feet, which is substantial, especially when some of our downtown merchants think about it. We're also looking at a major expansion of one of our industrial plants right on the edge of a residential area. So we deal with some of the same issues you've probably heard about in other areas.

As far as the amendments contained in Bill 20, the council is generally supportive of the changes, especially those that grant greater powers for making decisions at the municipal level, especially when it comes to demonstrating that we have appropriate policies placed in an official plan and then the minister having the ability to exempt future official plan amendments or even granting subdivision approval to a municipality our size.

In regard to the changes that return control over second apartments in houses to the municipal level through the zoning bylaws, Campbellford supports that. It won't make a great deal of difference in our case, because since 1988 we've primarily been able to allow that in 70% of our area that's already zoned residential. I think that was done in response to the provincial housing policy statement at that time as a way of increasing opportunities for affordable housing. What happened with Bill 163 didn't affect us and what happens with this bill won't affect us, but we feel it should be left at the local level to make those decisions based on what is needed at the local level.

In regard to the Development Charges Act, we know those changes are already in effect and we know that a review of the Development Charges Act is coming up. We would simply like to say that we hope, in that review, flexibility for financial arrangements for municipal governments is left in tact, because we have had good success in using a number of different options. We've accepted complete reconstruction of a street in lieu of development charges, we've accepted a cash payment that included development charges in return for infrastructure and we're currently looking at other sorts of partnerships where we can provide services, allow development to proceed and make sure that there's no burden on existing taxpayers to bear those costs.

Two areas where the council still has some concern about changes suggested are, first, in eliminating the appeal process for minor variances. I think council's willing to give that a chance, because in Campbellford we don't deal with that many minor variances and we usually are able to resolve any conflicts. We haven't had any appeals for decisions in over seven years, so we're doing well. I think what council would be looking at if the appeal process is eliminated—because in Campbellford our council sits as a committee of adjustment, so any decision would be final under the suggested changes—is to have some sort of appeal where perhaps we delegate

the next step to a mediator or something like that. We've had a great deal of success using the mediation process in regard to appeals of zoning amendments to the official board and we're usually able to get them resolved when we use that mediator. We feel that's something that can be used more broadly in all planning issues and perhaps is the answer in dealing with minor variances.

The second area of concern is with the removal of the restrictions for all uses or construction within environmentally sensitive areas. The concern there is that we're already seeing, with the impacts on conservation authorities and to a certain degree the Ministry of Environment and Energy, that we don't have the same ability to go to them and get information or get help when we're dealing with development in areas like that. Again, we are in a good position because we've already done a lot of identification of areas such as flood fringe areas along canals or creeks that flow into the Trent Canal, and areas susceptible to erosion. Our zoning already identifies restrictive policies, but it hasn't stopped developers coming to us and saying: "That flood information is wrong. There hasn't been flooding here in a number of years. You should let me bulldoze this hill down along the canal and build an industrial site here." It just helps when we're able to go to other people who can offer support services regarding environmental areas.

I think it's going to place a great deal of emphasis on having strong and clear policies in official plans that identify these areas and identify what can and can't happen. I guess there will still be a way for the province to make sure those are put in place in official plans, but I think that's where it's really going to rest in the future under these amendments.

1330

Finally, I'd just like to refer to the final recommendation in the brief, and that is about servicing capacity requirements. I'll just reiterate what's there, that we've done a lot of work to free up capacity in our community to allow development to take place, and I think we're a bit sensitive to the fact that now the rules are changing and other people may not have to work as hard. We hope that in the policy statements there will still be the strong emphasis that development should take place in areas where services are being provided and not to eliminate all development in rural areas, but certainly to take the pressure off greenfields development, where services may not be as available.

I want to thank the committee for the opportunity to speak here today and for coming out to Northumberland county. It's great to have a chance to come from a small community and present our point of view and to see some of the people who work so hard for us in Toronto. Thanks very much.

Mr Len Wood: I have just a couple of comments and maybe a question and then I'll leave some time for my partner Mr Bisson. You're saying that in your particular area you don't have a problem with apartments in basements, that a lot of the areas already have them or could put them in.

Mr Peters: We already had the zoning in place. What was happening was that it was permitted, and we found that people were coming to us first to see if it was

possible, so we'd know about it in that regard. Again, in a small town that size, it's pretty hard to hide anything. Usually if the people aren't coming in to tell us what they're doing, their neighbours are calling us quite quickly to let us know what's going on. Both before Bill 163 and now, in this case, I don't think it's going to have that much impact in Campbellford; it didn't through the course of the last two or three years, and the zoning was in place to pretty well allow what Bill 163 wanted to do.

Mr Len Wood: Under the Development Charges Act, you've said that the province should provide more flexibility. I guess you're probably looking at a lot of the other municipalities and that, when they're losing 45% to 50% of their funding for road maintenance and snow removal and this and that. And then with changes that are being made to that, you're concerned about how you would raise the money for the development in these particular areas if you're not allowed to raise the money from the contractor who owns the land.

Mr Peters: Yes, I think that's the case. As I tried to indicate, it's worked well with us in being able to negotiate with developers. We want to be fair and we want to see development take place, but we have sort of set a policy that there shouldn't be any costs borne by existing taxpayers unless it's going to be an upgrade to a street along which existing housing takes place.

Mr Len Wood: Are you looking at user fees, like tolls on the highways or gas taxes, for raising money?

Mr Peters: Along those lines, I think the idea that's come up is perhaps a charge for utilities that use the road allowance that don't pay anything to the municipality now, for instance, gas lines, cable TV lines or things like that, which travel within the road allowance but which do it at no cost to anyone except putting the lines in themselves. That's something else, I think.

As far as development charges go and how it pertains to development, I think we simply want to see that if we make arrangements with developers that haven't been done before, that no one is going to come and say: "Oh, you can't do that as a municipality. That's never been done before. You shouldn't be doing that." We want the opportunity to explore all sorts of ideas when it comes to partnerships to make development happen.

Mr Bisson: I have just a very quick question. One of the presenters this morning talked about part of the difficulty in putting programs through planning processes, that at times there is political interference at the municipal level. I'm not asking about your municipality, because I wouldn't want to put you in that spot, but do you think that is a problem that does happen, in your view? A second thing is, would we be better served by doing planning from an area or a district authority rather than having it at the municipal level?

Mr Peters: We have been having discussions among five area municipalities, Campbellford being one of them, and some surrounding townships about the possibility of forming a municipal planning authority to cover areas of common interest and to deal with issues such as servicing across boundaries and things like that. Those discussions are still ongoing, and I think we're waiting to see more clearly what the direction is from the province as to delegation of approval authorities and the role of municip-

pal planning authorities and things like that. A lot of these ideas are new and we're working out how they're all going to work.

Mr Bisson: Political interference?

Mr Peters: Political interference, which is a political process you have to deal with. You either have the skills to deal with that aspect of it or you don't. Usually in Campbellford we negotiate the agreements at the staff level and then come back to council with a presentation. If there are other things to work out from there based on council input or further developer input, we deal with them. I have dealt with political interference and I can say that it has generally worked out in everyone's best interests. It hasn't messed up the process.

Mr Bisson: You're very diplomatic.

Mr Smith: Thank you for your presentation and your supportive comments with respect to the bill. I'm not sure if you were here this morning, Mr Peters, but I came away from this morning's session with a feeling that there wasn't a great deal of confidence in some of the presentations with respect to the ability of local planners and municipal politicians to effectively deal with broader planning initiatives on the regional and even on the local level.

As a committee member, can you help me reconcile those concerns? How would you respond as a planning official in a smaller community to these concerns about your ability to deal with issues that require certain levels of technical expertise?

Mr Peters: Just commenting generally on what I know of Northumberland county, I would say there's good planning expertise and technical expertise on issues such as servicing, and through other bodies, through specific areas. There are a number of consulting firms that I know provide planning expertise to some of the smaller townships where they don't have planners on staff.

In Campbellford what we've been working towards, both through the planning department and the public works department, is getting to a point where we feel comfortable and confident in dealing with development proposals, subdivisions, things like that, so that we can put that all in place ourselves. If there are specific questions we need answered, then we can go out—and we know exactly what expert we need to bring in—and say: "Please design a storm water outlet for us. We can't do that ourselves." But generally we feel we can deal with things.

I've certainly had to appear before the Ontario Municipal Board and give planning evidence and I found that a positive experience. It has worked out well for me and for the town and for the development. I think there's a lot of ability at the local level and I think we need to be given the opportunity to prove ourselves. Like I say, we'd like to be able to go to the minister and say, "Please give us the authority to approve our own subdivisions," but only if we demonstrate it through our policies and through our experience and expertise.

Mr Galt: Thank you, Jim, for a thoughtful presentation. I'm curious about your thoughts on the one-window approach—you talk about the lead ministry; I don't know if we'd really consider it as a lead ministry, which suggests it may have more power than the others—or

rather the one-window effect or process, and you've arrived at your support of this. We've had some groups in that are concerned about Environment, concerned about Natural Resources, concerned about Ag and Food, about not having an opportunity to put their concerns forward. You're not feeling that way. Could you expand on that and tell us how you arrived at this decision?

Mr Peters: I think in the past when we've dealt with the planning process, especially for official plan amendments, I'm sure you've all heard stories about the length of time it could take for some proposals to get through the system. You just think you've got it all straightened out with one ministry and something comes in from another ministry which takes three months to resolve, and the next thing you know there's yet another ministry that has concerns.

I hope what lead ministry means, what I think I mean is that the Ministry of Municipal Affairs and Housing will coordinate the input of all the other ministries. I know some of this has been done over the last couple of years with the idea of bringing everybody to one table and saying, "What are your concerns? Let's hear them now and let's start working on them all together and resolve them," so that instead of taking 18 months, it only takes three months to deal with all the concerns that might exist.

I guess we see the Ministry of Municipal Affairs and Housing as coordinating all the other ministries, coordinating the input, and knowing that there's one place we're going to be able to deal with and get the answers to our questions or get the feedback we're looking for.

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Mr Galt: You don't see a great loss to Environment or to Ag and Food—

The Vice-Chair: Dr Galt, I'm sorry, but our time has expired.

Mr Gerretsen: It's kind of like saying that the Ministry of Municipal Affairs is just going to be another ministry to approach. It's kind of like saying that Mike Harris is just another member of the provincial Legislature. Let's be honest about it.

Mr Murdoch: His vote is just the same as any other.

Mr Gerretsen: He's just another member. Right.

If they are going to take the lead in this, they're going to be mainly in charge of the process. I'll accept that; that's a fact of life. By the way, Campbellford's a beautiful little town. I've gone through it many times on my way to Peterborough. It's on the canal. I'd recommend everybody go there some day. Your council ought to be really congratulated for having a planner that can actually put it all on one page. This is just great.

I'm a little bit concerned, though, about—and this is in light of what Dr Galt and Mr Smith talked about—environmental concerns. I thought your presentation was very fair and honest, that yes, you have planning expertise, but on the other hand, you obviously do not have the expertise in environmental matters that you're getting now through your conservation authority, maybe through MNR and what have you. That may very well be lost as it looks as if conservation authorities are going to be reduced in responsibility and certainly in funding and the number of people they can employ to look after these various areas.

How does a small municipality really deal with the environmental concerns if that kind of expertise is no longer there? We can sort of blush it all over and pretend everything will be all right, but I'd really like to know how you are going to deal with that in a smaller community.

Mr Peters: That's exactly what I was getting at, that we have depended, when it comes to environmental issues, a great deal on the conservation authorities or on being able to call the Peterborough office of the Ministry of Environment and Energy and say: "We're dealing with this. How can you help us with this?" Like I say, I already know that I'm not getting planning response from the Lower Trent Region Conservation Authority because of their cutbacks unless it's something quite severe.

I think if we're going to deal with it, if we're going to be the ones where the responsibility lies to deal with these issues at the municipal level, we're either going to learn by our mistakes—and you don't want mistakes that are going to create big problems in environmental areas because they could be quite severe—or we're going to have to do a very thorough job when we do an official plan to identify exactly what types of development, if any, we're going to allow in certain areas, what those areas are, and have very strong policies that identify what we need if we're even going to consider those applications.

Mr Gerretsen: And you need firm environmental policies from the province, don't you?

Mr Peters: Yes, the guidance hopefully will come through the policy statements, and when we submit our official plan for approval to the province hopefully they will be looking to identify that we have those strong policies that identify provincial interests and protect those interests. That's the way I see the process is going to happen.

Mr Gerretsen: I totally applaud your mediation efforts, because I think that's the way to go in a lot of these issues.

Mr Peters: We've had great success with that.

Mr Gerretsen: Thanks for appearing. I appreciate it.

Mr Peters: Just to return the compliment to Campbellford, I spent seven years in Kingston and found it a wonderful community as well.

Mr Gerretsen: I'll take that back to the burghers of Kingston and it will be headline news in the Whig-Standard tomorrow, I'm sure.

The Vice-Chair: Thank you very much for your presentation this afternoon.

FEDERATION OF ONTARIO COTTAGERS' ASSOCIATIONS

The Vice-Chair: I would ask the representatives from the Federation of Ontario Cottagers' Associations to come forward. Good afternoon and welcome to our process.

Mr Ambrose Moran: My name is Ambrose Moran, and with me today is Gord Isbister, our executive director. On behalf of the members of the board of directors of the Federation of Ontario Cottagers' Associations, I would like to thank you for the opportunity to address you today.

I'd like to preface my comments by explaining that FOCA is an umbrella organization of cottager associations and individual members throughout rural Ontario in areas such as the Kawarthas, Georgian Bay, Muskoka, Haliburton, eastern Ontario and the Lake of the Woods. Approximately 50,000 cottagers belong to FOCA through 500 cottager associations along with another 800 individual members.

Most of our members have cottages on or near the Canadian Shield. Inappropriate development in cottage country could negatively impact the fragile environment of these areas and destroy the local economies which are increasingly so dependent on the attraction of a clean environment. Polluted lakes and damaged ecosystems will not provide for sustainable communities in rural Ontario. Tourism and recreational development are directly linked to a clean environment. Environmentally sound development will support local economies. We firmly object to the regressive notion that the environment must be sacrificed to stimulate the economy. In rural Ontario, the environment and economy are directly dependent on one another.

The high profile of planning reform through the term of the previous government and continued by our current government has raised public awareness of the need for clear legislation providing a streamlined, accessible and fair planning process.

We are here today to share with you some observations about Bill 20 and make some recommendations as to where improvements can be made to address our concerns which have been developed through consultation with several of our member associations across Ontario. This submission has been endorsed by a motion passed by the board of directors of our federation on Tuesday, February 20.

We have met with the Ministry of Municipal Affairs and Housing staff and Ministry of Natural Resources staff regarding the new policy statements and will be making a submission later this month about our concerns, which are not part of this discussion today.

Today we would like to focus on four areas of Bill 20 within the time available. We are aware of the presentations by the Lake of Bays association, the Georgian Bay association and the Federation of Ontario Naturalists and we would like to go on record that we support their stated concerns.

Throughout the previous consultation process leading to Bill 163, we and many others invested a considerable amount of energy in working towards improving the planning process. We were generally supportive of Bill 163, which was developed based on a very broad public consultation and attempted to achieve a fair and balanced approach to resolve competing interests in planning and development issues. With a change in government, it is realistic that changes will follow in legislation and public policy. Like others, we realized that Bill 163 was not perfect and we are anxious to work with this government in making further improvements.

Our first concern relates to reduced public access. Bill 20 severely limits the overall public access to the planning process in several ways.

The purpose of the Planning Act is, among other things, to provide planning processes that are fair by

making them open, accessible, timely and efficient and to encourage cooperation among various interests. Good planning involves early participation by affected stakeholders to resolve conflicts in order to avoid delays and costly appeals. We at FOCA are anxious to participate in partnerships with municipalities throughout rural Ontario to help them make good planning decisions. Planning authorities throughout rural Ontario need all the support they can get and a successful planning process allows for an appropriate notification system, reasonable time frames for public participation and public meetings.

Public meetings on consents and subdivisions are essential in order to provide input into the planning process. New lot creations are not minor planning decisions and views of interested community members and directly affected adjacent land owners should be expressed at public meetings. We strongly oppose the elimination of the requirement for public meetings for consents and subdivisions.

Our first recommendation then is that mandatory public meetings for consents and subdivision applications be reinstated.

Bill 163 imposed various time limits on the planning process. We will never know whether those reduced time frames were even workable. Bill 20, apparently in an attempt to further streamline the process, has made various changes related to time requirements for notices, appeals and making of decisions. Many are unacceptable and problematic.

We have concerns about the following time constraints: reduced notice requirements for public meetings on official plans from 30 days to 20 days; reduced periods for appeals of decisions on plans of subdivisions from 30 days to 20 days.

Reducing notice and appeal times to 20 days causes our membership problems. Most often, our members reside outside the urban area, remote from the cottage areas where decisions are made and notices are posted or advertised. For cottagers located away from where decisions are made, the reduced periods frustrate our membership in their efforts to provide meaningful input into the important planning matters directly affecting lake communities.

The following recommendations are made: that time frames for notices of public meetings on official plan amendments be reinstated at 30 days; and that time frames for OMB appeals on subdivisions be reinstated at 30 days.

Further time constraints are proposed through Bill 20 on planning authorities as follows: approval periods for subdivision applications have been reduced to 90 days from 180; approval periods for consent applications have been reduced to 60 days from 90.

It is our view, and supported by many, that it is impractical to expect the responsible planning authority to evaluate and make decisions on subdivisions or consent applications within the proposed time frames.

Winter conditions will dictate that properties subject to the application are not even accessible during these periods of time. Attempts to meet these time frames would risk new lots and roads being created in sensitive areas where, based on the terrain, basic sewage disposal systems would be unworkable. Agency input during the

winter months, especially from health units and the Ministry of Environment and Energy, regarding septic suitability is not possible.

Rights for applicants to go directly to the OMB after a 90-day period on OPA's plans of subdivisions and zonings are unreasonable and potentially will bog down the OMB process. The automatic right to appeal to the OMB very shortly after making an application denies the local planning authority the time to arrange for meaningful input and undermines any opportunity to find resolutions to identify concerns.

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Even though the thrust of this legislation is to empower municipalities with more planning authority, their period of empowerment is minimal before the applicant is empowered to apply directly to the provincial OMB. This contradiction undermines the contributions that interested ratepayers can make in assisting planning authorities with finding locally developed solutions to planning conflicts. Planning authorities cannot and should not make decisions without adequate technical information and essential agency and public input. The proposed time frames simply do not provide adequate timing for planning authorities to make defensible decisions.

This leads to another recommendation, that time frames for planning authorities to approve zonings, official plan amendments, subdivisions and consents be reviewed and adjusted, taking into account constraints in evaluating properties during winter months.

Our next concern is related to minor variances in OMB appeals. Bill 20, as currently written, amends the Planning Act so that the traditional rights to appeal to the OMB on minor variance decisions are taken away. This proposed amendment is apparently intended to streamline the planning process, but it would be replaced by a cumbersome process of council referrals tied to a number of stringent notice requirements and commenting time frames which could prove to be problematic.

We are aware of, and agree with, the Urban Development Institute's submission to this committee stating that "property owners should always possess a reliable route of appeal to the OMB regardless of the magnitude of the decisions."

We see the following problems with eliminating the rights of appeal to the OMB on minor variances.

Abuses of the variance process could result as certain councils will enjoy the final authority, leading to more instances of poor political decisions rather than good planning decisions when municipal councils are not subject to review by the OMB.

Where developers recognize the influence of active ratepayers over elected councils, developers will likely make applications for rezoning rather than minor variances in order to provide for an eventual appeal to the OMB rather than having to accept a final political decision from council.

Ratepayers disagreeing with and frustrated by a final council decision on minor variances will possible complain to the Minister of Municipal Affairs and Housing, the news media and the local MPPs, as they have not had the traditional right for a hearing at the OMB. In the past, provincial politicians have not had to get too involved in

planning disputes as their constituents have appeal rights to an independent planning tribunal.

A serious matter of fairness can arise when a developer's application is denied by council and then the developer can immediately apply for rezoning for the same bylaw relief. This will provide the developer with the opportunity to eventually access the OMB, whereas a ratepayer objecting to a variance application has no further steps to take after a final council decision. This is not fair and conflicts with the Planning Act, section 1.1, stating that the purpose of the Planning Act is to provide for planning processes that are fair.

This leads to another recommendation, that appeals of committee of adjustment decisions to the OMB be reinstated.

The next concern is related to official plans. Official plans in the past were intended to provide guidance for growth for communities over the long term. This bill not only removes the content requirements of official plans, as written it treats official plans as something to be changed in 90 days, which again, based on winter months, would not allow for access to and consideration of natural heritage features.

In time, official plans will be neither official nor plans, but rather just another site-by-site development application process requiring amendment to satisfy the approval process, likely processed and parallel with an application for subdivision and rezoning.

The combination of deleting any requirement for official plan content and allowing for quick amendments at even lower levels of government without planning expertise significantly erodes the certainty that communities in the past have relied on for long-term orderly development.

This leads to a requested amendment: that the provision to regulate content requirements of official plans be reinstated and, further, that a process be provided for approval times of official plan amendments to be extended to 150 days when the review period includes winter months.

Our final concern relates to the subject of one-window approach. Natural heritage and environmental protection in the planning process has traditionally been influenced in cottage country by the role of MNR and MOEE as commenting agencies that have rights to appeal planning decisions to the OMB. Local councils relied on their objective input and took agency comments seriously, as they have expertise in their respective areas. Bill 20 proposes to restrict provincial agency appeals to the Ministry of Municipal Affairs and Housing. This is of concern to us. The traditional planning clout of provincial commenting agencies will be eroded with a centralized appeal process. Municipal Affairs may not be prepared to assign the ever increasingly scarce provincial staff resources to challenge planning decisions made by local municipalities. This will undermine both the provincial and public interest in advancing good planning throughout cottage country.

We see the merits in Municipal Affairs coordinating provincial agency planning inputs, but we feel strongly that MNR and MOEE should not be in a position of being overruled by Municipal Affairs if they elect to

appeal a planning decision to the OMB in their attempts to protect water quality standards and our threatened natural heritage.

Our final recommendation is that the powers of MNR and MOEE to appeal OMB decisions be reinstated through either legislative change or, alternatively, that FOCA be given assurances that MNR and MOEE will be designated by regulation as public bodies, as provided for in subsection 1(3).

In summary, FOCA feels that our concerns are neither extensive nor unreasonable and can be addressed by making further amendments to Bill 20 before it's finalized. In September 1994, we presented our recommendations regarding Bill 163 to the standing committee on administration of justice and we were very pleased that FOCA's concerns were addressed in the final version of that bill. We are hopeful that we can again be in a position to report back to our membership that this government has listened to FOCA.

In closing, I want you to know that we realize the difficult task facing you in finalizing this legislation and we hope that our views will be of some assistance. Thank you again for the opportunity to address you. I would be pleased to answer any questions from the committee.

Mr Ouellette: Thank you for your presentation. I personally don't believe that members of your organization would intentionally go out to do any environmental damage, yet I know biologists who blame the cottagers for loss of fish habitat, shorelines and boats and things like that or for the oil slicks that are caused. I believe it's the same for municipalities, that if they're given the ability to make decisions they won't make decisions specifically designed to negatively affect the environment.

It's good to see on page 3 that you made a note that you're looking forward to working through partnerships with the municipalities in making decisions. I'm glad to hear that. One question I have though is, do you think that this legislation will change your membership's ability to change or restructure any of the shorelines?

Mr Moran: One of the significant things in this bill is the reduced access to the process. The condensed time frames will present problems even in our finding out that an application's being processed or a decision's been made or that our appeal rights are being expired. We feel that the condensed time periods will negatively affect our participation.

In terms of being partners with municipalities, we've encouraged a lot of our members to join the planning advisory committees and the committees of adjustment throughout rural Ontario and bring to them the views of the cottage associations and assisting municipalities. That's worked out very well in some areas.

Mr Ouellette: You don't think this legislation, except for the time frames, will affect the ability to make shoreline changes at all?

Mr Moran: This legislation, as you know, is tied into the provincial policy statements, and we have very serious concerns about what appears to be the abandonment of the protection of the wetlands in the Canadian Shield. They'll be a separate submission. We are very uncomfortable about the downgrading of some of the provincial policy statements that are currently being reviewed.

1400

Mr Hardeman: I just wanted to quickly go back to the issue of the one-window approach and the Ministry of Municipal Affairs and Housing coordinating a government response. Do you not see it as an asset to the system that the government ministries have to get together and come up with a provincial policy or a provincial direction or a provincial position before they go to the OMB, as opposed to having provincial ministries ironing out their differences before the OMB, recognizing they all represent one government?

Mr Moran: Initially, through the Sewell commission it was proposed that Municipal Affairs take a lead role in planning and contribute to the coordinated effort. I think we were very comfortable about that at the time. But now, realizing that the Municipal Affairs minister himself may not be very supportive of the OMB, we now don't want a concentration of that authority with a minister who does not seem to be supportive of that process. That causes us some serious concerns.

Mr Gerretsen: We totally concur with the requirement of a public meeting for a subdivision and for a consent, and also that there should be an appeal with respect to minor variances to the OMB. That issue has absolutely nothing to do with municipal planning. Municipalities should be allowed to plan, but also there are times when the general public or a developer or a municipality, each one of them from their own different aspect, may wish to appeal to an independent third body. That's what an appeal's all about.

The assumption on the other side, on the government side, is that the OMB is only there to deal with appeals from the general public that doesn't like a development or something like that, but it could be just as easily the other way around, and they just totally fail to understand this. A developer could be wronged by a municipality; a municipality could be making the wrong decision. It's a three-way street.

I'm just warning for the day, if this is implemented the way they're suggesting, that the first time one of these things comes up, all of a sudden they realize, "My gosh, maybe there should have been an appeal to somebody else because the right decision really wasn't made," and that's really what it's all about. I totally concur with that.

Mr Bisson: Just a quick comment on recommendation number 4 in regard to only MMA being able to go to the OMB. I agree with you. I think MNR, for example, is probably best situated to deal with issues that deal with habitat and fish-wildlife issues, expertise is not found within MMA. One fear I have, just to put it a little bit differently, is that it may not be that the minister is not supportive, and I think that's one of the issues; but the other one is that there are people who work for the Ministry of Municipal Affairs who are not fish biologists who don't have the expertise in that field. If they don't take seriously the concerns of MNR, some of those issues may go by the wayside, and I think that would be one of the problems.

The question I have, however, you deal on page 7, where you say, "In time, official plans will neither be official nor plans but rather just another site-by-site development application." I'm just wondering on what

assumption you base that. Do you base that on the assumption that you'll have municipalities competing for development so they'll lessen their standards, and the official plans will go out the window? Just to clarify so I know what you're saying there.

Mr Moran: In the past, official plans were developed through a public process and they seemed to be in place for a long period of time. They seemed to deal with long-term issues. But the emphasis in this bill is to allow an arrangement where they can be changed quickly, they can be changed at a lower level of government and the contents in them are not even prescribed. If we get to that stage, there was really no reason even to have an official plan.

Mr Bisson: Oh, I see. You're coming at it from the other way. Last, what I'd be looking for some comment on from you is that there is a sense within this bill and within the government that the public shouldn't play as great a role as they do now in regard to objecting to developments put forward by developers and going to the OMB, and because of that they've restricted, as you said in your presentation, many of the safeguards we have now to protect the public right to access or to appeal a decision. Should we regard public access as a hindrance when it comes to development?

Mr Moran: As what?

Mr Bisson: As a hindrance. Should we regard public access to that process as a hindrance to development? Is that sort of the tone of what the act is all about?

Mr Moran: We feel that some of the traditional rights of access and rights of appeal have been eroded in this bill, and we feel that we could come as partners and make a contribution to the process, but first of all, we've got to know about it and then we have to the right to participate.

The Vice-Chair: Thank you very much for coming forward this afternoon.

MAX LeMARCHANT

The Vice-Chair: I ask that Max LeMarchant please come forward. Good afternoon.

Mr Max LeMarchant: My name is Max LeMarchant. I'm a private, independent land developer. I provide services to both the construction and the development industry. My presentation this afternoon I'm going to try and keep on a general level. I have not prepared a written brief. I'm sure everybody has plenty of paper. I hope I will be able to convey some ideas that will be of help in a clear enough format and in a simple enough manner that they may be of some assistance.

First of all, I'd like to say that I very much support what is being attempted with Bill 20, as far as reducing red tape and streamlining the process are concerned, as I supported what was being done by the NDP government for five years in the same direction, to attempt to streamline the process, reduce red tape, have the system work better and boost the economy. So I'm very supportive of this objective.

However, I am not going to address the specifics of Bill 20, because I think that possibly, in addressing the specifics, the fundamental points are being missed. The matter of "have regard for" or "be consistent with"

reminds me of the controversies in the Middle Ages with people over the Holy Trinity and the relationship of the Holy Trinity, as they merrily went off to war and slaughtered each other. It wasn't a matter of what the relationship was; they kind of missed the fundamental point of what the substance of the issue was.

I think what is happening here tends towards that very quickly, with the immediate digression into masses and masses of process and legalese and documentation and more process. The fundamental requirement to have a system that works well and that is operable is lost somewhere along the way, somewhere in the debate of those fine-tuned words.

The point, as far as I see it, is that the planning system isn't working. That is the fundamental issue here: The planning is a shambles. The experiment of planning to a larger degree has failed and I don't think anybody disagrees on that. The NDP government recognized that there were major problems and moved immediately to step in and have public meetings to address those problems. They realized it was critical. They spent a great deal of money to try and address those problems.

However, after five years, the problems are still problems, and now we have a new government which has taken up the mandate of addressing those problems. I wholeheartedly support that because for the period these problems have been outstanding the economy has been strangled. We're descending into a depression in Ontario. The last seven years in business in this province have been a nightmare. We cannot operate business. As somebody in the land development industry who is actually trying to bring a product to the community, who is actually trying to run through the gamut of what's being debated and theorized on, it's impossible. Nothing goes through the process.

This morning, Jo Casey made reference to the fact that the Second World War was fought in a shorter period of time than it takes to get a land development project approved. Never mind the Second World War, the railway across Canada was put in by hand in shorter time than it takes to get a development project approved.

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We don't even think in concepts of doing anything even remotely close to that magnitude, but for sure, 100%, it's undoable. In the final hours of the 20th Century, we can't do it. We can go to the moon, we can do all sorts of other marvellous things, but we can't develop any more. We can't build houses; we can't have jobs; we can't create new businesses; we can't have a system to do that. All of a sudden it's become impossible. I think that's a fundamental problem. When we're debating the matter of streamlining the system and looking at ways to streamline the system, maybe it's time we started looking at what some of the fundamental assumptions of that system are, in particular, what is planning and what is the actual correct mandate of planning.

Planning has not negated corruption, planning has not produced good development, although that is what it was put into place for, to make sure that everything was organized and there was no corruption at any level and everything was fair and orderly and worked beautifully. It hasn't done it. It's done the opposite. Everywhere you

look there's terrible development that people are obviously unhappy with. I don't think I'm being presumptuous when I say that, because there are a lot of people who look at the last 30 years of development and want to hang developers from trees because of it. It's not the developers that produced that; it's the planning process that produced that. That is what that structure has been extruded through: planning, official plans, and every level, more and more.

We look back on the communities that everybody loves and say, "Why can't we get back to this beautiful environment here where the architecture was so picturesque and everybody had a nice time?" and so on and so forth. The reason we can't get back to that is because we're operating in a straitjacket of planning procedures, and that straitjacket is becoming more and more constrained and the system, instead of correcting itself, is building on itself and feeding on itself.

The problems are identified and the solutions always come up the same. What do we need? We need more planning. This isn't working correctly? We'd better have a study, we'd better have another plan, we'd better have more legislation, more, more, and it all gets piled on top. When can we stand back and say, "Wait a minute; this is the problem?"

With my interpretation of what I see in Bill 20, Bill 20 is attempting to do that, and it's attempting to do it in an expeditious fashion. I would have to say that I personally and a lot of people who are in the industry are just praying that this will work, because if somebody has their hands around your throat and you're choking for air, you want them to release it. Maybe the bill isn't perfect, but wouldn't it be better to take a step and actually implement something this year than to take five years debating it and find out that nothing happened?

My recommendation is this: The overall planning system, which is actually land use control—I think it's difficult to refer to land use planning as actual planning. When you're talking about planning, it's a pretty dynamic subject to actually contain and what actually it becomes boiled down to is a system of land use control. What is the appropriate area for land use planning to deal with? I think the correct areas have to be moved back to health, safety and economy. Those areas have to be focused on.

The concerns with the environment and planning: The planning process hasn't necessarily protected the environment. There are many examples, when you get into central plan situations, where the worst catastrophes to the environment occur. The matter of that is well documented. I think that moving to reduce the mandate of planning is at the heart of the solution—by reducing it; not more legislation, not more public input, not more consultant input, but less.

The other problem I see with the existing system, beyond its fundamental mandate being too expansive, is that the components of the system are not synchronized towards the desired objective. The components of those systems, the actual motivators, are the reverse. In other words, for many of the people who are in the land use planning and development system, their motivations are not to produce good housing for people, they're not to expedite and streamline the system; their motivations are

exactly the opposite and they're being compensated for doing exactly the opposite.

The more planning, the more OMB trials, the more studies and the more complication, the more a whole industry of consultants, lawyers and associates is paid. That is not something that's a side issue; that is a fundamental driver. To have that particular situation, where you're dealing with a team and that team is not all focused on moving that ball down the field, but 90% of the team is to make sure that ball goes nowhere and they're getting paid to do that, is a big problem. When we come and ask for solutions and we say, "Okay, industry, how can we arrive at solutions, please?" the developers immediately—their opinion is biased because of their financial gain. So they're put in this marginal area over here.

The only people who are being accredited with supposedly unbiased opinion is this industry of consultants. This industry is not unbiased. This industry has been rewarded beyond anybody else because of this process. They have been rewarded and continue to be rewarded because of the complications in this system. The consultants that work for us, when they find that we have to go to the Ontario Municipal Board, that is not an unhappy day.

Mr John O'Toole (Durham East): Pay day.

Mr LeMarchant: And I hate to say that, and it's not the consultants' fault, it's the system's fault, because in a market economy, we have to pay our phone bills and we have to pay our rent, and it's individual business's mandate to maximize their profit.

Where the problem comes in is the system that promotes a situation where individual interests are counter to the collective interests, not consistent with them. Unless we can introduce some accountability into this system of consultants, studies, it's going to perpetuate itself, because it's similar to trying to get a snowball to slide down a hill rather than to roll down it to suggest that the consultant industry is going to be convinced to streamline and expedite the process while they're getting paid to do the reverse.

My next point is that there has to be some sort of accountability introduced into this system. We can't continually be paying and paying for the complication. There has to be some accountability. Consultants have to be held responsible for their work. Three or four different consultants reviewing the same thing, coming up with diametrically opposed views, all being paid for it and the process being delayed because of it. Somewhere there is something seriously wrong with the professional criteria of that system. People have to be held accountable and there has to be a proper reward and benefit.

1420

My next point is to do with needs. With respect to needs, I think in a market economy the suggestion of needs studies being introduced into that is very pernicious. I believe that we live in a free market economy in Canada, not a centrally planned one. I think that when you have, all of a sudden, your economy being regulated by needs studies, whether it comes down from the top, as it does in centrally planned economies, or whether it percolates up from the bottom to result in exactly the same thing, central planning regulated by needs studies

produced by government authority, that is contrary to what we're dealing with. It hasn't worked anywhere. It hasn't worked in business. The needs studies have been incorrect; they haven't worked. It hasn't worked in economies that have tried it. It hasn't worked; it's failed. So why are we doing it here in planning? Why are we saying, "You're going to have to have a needs study before you're going to be allowed to do business"?"

My last point—and I'm going to cut off two other points because I think I'm going over—

The Vice-Chair: No, not yet.

Mr Gerretsen: We want to ask you some questions.

Mr LeMarchant: I won't skip the points. Thank you for your indulgence.

With respect to the planning system and official plans, everybody takes as motherhood that yes, planning is great and we must have more planning. Nobody will dispute that planning is important. However, over the 30 years that this planning process has been growing and gaining momentum and coming into being, it has been in a state of disaster. The official plan process in these communities is not working.

The planning horizon for official plans was stated as being five years. It takes five years just debating what is going to be in the plan. It's taking upwards—well over five years, eight years, 10 years, sometimes never—to get an official plan approved. That is a state of default. Why are we still talking about what is going to be in the official plans when the official plans themselves don't work? They're not working. The evidence of these official plans is in a state of disaster.

My next point is with respect to the politics of the system. I think as the consultants and the consultant industry have a reverse incentive which is hampering the desirable objectives of the land approval system, the politics as well are hampered by that system and perpetuate the undesirable. By having this level of planning and this level of complication and this level of obscurity that's introduced with 40 different ministries, five or six different levels of planning etc, unfortunately, the accountability for decisions is removed. Nobody knows who's accountable.

If it's a political decision, the political people should be responsible. If they say, "Yes, I'm elected. I think this should go. It's my view. That's what people are elected for," can we not have that? That way, at the next election somebody can say: "I'm sorry, we didn't like what you did. Goodbye." But at least the politics is identified and not obscured in some technocracy. The level of accountability is identifiable. I think in this system that is an important thing that has to be identified. Ultimately, some development decisions will have to be left to the politicians who are elected to decide, based on their best judgement and their opinion or their bias, or whatever.

If I seem very committed to what I'm telling you, I am, because this is my business, this is my livelihood. I made the choice of pursuing this livelihood in a very hostile environment over the last seven years in the belief that it was worthwhile pursuing because this is a good place to do business.

The Vice-Chair: We have about 10 seconds left.

Mr LeMarchant: When I look over my files—and I have a stack of résumés from people who are looking for

jobs—and I leaf through them and wait and wait because we cannot do business, it's disappointing. I have résumés from planning students, project managers, construction people who are the best. We had a girl who worked for us who graduated top of her class in planning. She worked night and day for us doing historical work etc. When she got out, there was no job for her in planning. She graduated at the top of her class; there was no job. We couldn't give her a job. We could give her a job if we weren't held up for seven years. We could hire people.

But we can't. I have literally a stack, and every day people phone me because when they hear of the projects that we're working on or that I'm involved in, they're interested and they're just hoping that maybe there will be a job for them, maybe there will be some employment for them. But the only thing that I can do is tell them: "I don't know when their projects will be approved. There's no definable time line. We're hoping that it will be some time soon." So please, in your consideration of Bill 20, to the present government and to the opposition, can we please have some sort of agreement to do something that will give us an opportunity to work?

The Vice-Chair: I thank you very much for coming this afternoon, sir. Unfortunately, there's no time for questioning.

DAVE TREDREE

The Vice-Chair: I would ask Mr Tredree to come up, please. Good afternoon, sir.

Mr Dave Tredree: My name is Dave Tredree. As it says in my brief that I've handed out, I am a citizen of Northumberland. I currently reside in the town of Cobourg and have done since 1966. I'm a retail businessman and as such I'm also a husband and father. I've purchased some properties over the last some 20-odd years. Of the properties that I've purchased, two of them that will be in your brief. One of them is in the town of Cobourg. It is zoned, in the official plan, medium-density residential. The other property that I'm referring to is in the township of Hamilton. It is in an official plan which was approved in 1986 as hamlet.

I can do one of two things. I can either read to you or I can talk to you.

Mr Bisson: Talk to us.

1430

Mr Tredree: All right. It's easy for me to talk to you, because what's in my brief I've lived. This isn't something that might happen, could happen, shouldn't happen; it happened and it's happening.

I guess we have somewhat similar things in common. As you are members of our provincial Legislature, you weren't always members of the provincial Legislature. You decided to be that and you convinced people to back you and you're there to do what you believe is correct. I'm not a land developer. I've become a land developer, but I don't rely on it as my income. If so, I'd be the thinnest skeleton you had ever seen in your life sitting before you.

My real problem is not with you as politicians or with councillors, because over the period of time that I'm dealing with here, which starts in approximately 1986, I've seen mayors, councillors and so on come and go, but

the one thing that never changes is the employees they leave behind. They are the ones I have to deal with. Regardless of how good and positive their feelings are, when they come and go, the same people are left.

So I'll talk to you and I'll try and go over places you can find. The pages are numbered from 1 to 8, and on page 9 there is a schedule of times. We'll get to that after the first point.

One thing I'd like to remind you all of is that my definition of the system is that the system will only move as fast as it has to, not as fast as it can.

The first part I'm going to discuss is the official plan, a proposed amendment or current plan. I told you I have a piece of property in the township of Hamilton. An official plan was adopted in 1986 and it is what's known as a provincially approved plan. In 1992, the township council of the day decided it would look over and see what things needed to be changed. In 1993-94, the council adopted amendments to that official plan. There was a redesignation, without my request, from hamlet to service-commercial. The official plan was presented to the provincial Legislature, provincial government. The province suggested that it accepted things, and things it didn't accept it sent to the Ontario Municipal Board. In 1993-94 was when they got the material.

On March 7, 1996—this is three years later—there's going to be a conference at the township office to discuss preliminary and procedural matters to the various objections, including mine. I'm trying to get a piece of property rezoned to bring in some industry and create employment. Under the current official plan designation, which is hamlet, I'm allowed to do that. But then there is this proposed official plan amendment that says it's service-commercial. My problem here is not with the councillors; my problem is with planners.

I've had now five planners, all of whom I'm paying. I pay to fight myself, because the rule says I have to pay the township's costs, so the township hires a planner at my expense to fight the planner I'm paying for. It's a love-in going on as far as planners are concerned, because what's happening is the council wants to make a decision but it wants to make a decision that can be substantiated by planners. So they're completely stifled. What do they do? Do they overrule the advice of their current planner or the planner from two times ago? Which planner do they do? They want to do something, but the planners are stopping them simply because they can create arguments. Arguments equal profit in the planning game. But they also create indecision.

So what I'm saying is that the government, in your Bill 20, can simply tell people clearly which is the right official plan. Is it the official plan that has been adopted by the province or is it the official plan that is being challenged and appealed to, referred to the Ontario Municipal Board and may not in fact ever be law? How long are people like myself expected to wait? I'm just one, and this must be going on across the province. There has to be something you can hang your hat on. Right now, there's nothing, and the way it's going, I won't have to worry; there will be no hat.

You can answer this and deal with this very quickly in your bill. Tell us which is the right piece of legislation.

Is it what we have or what we don't have, what we might have?

Secondly, an amendment to an official plan—it's on page 3: A person in our community, the town of Cobourg, bought a house and decided they wanted to put in a business, a little foot-care clinic, in the middle of a residential area. At the time, the planner of this community and myself agreed that the whole area should be changed in the official plan from residential to allow business. But the cost would have to be borne by the one who applied for the official plan's amendment. Therefore, he had a spot OP change and, as such, a spot zone change. This was in January of 1993.

I went to the public meeting and I said I didn't want that. What I wanted was the whole area, not just one little tiny piece of it, some 50-foot lot or 60-foot lot; do the whole thing. I'd have no problem with that. So I was supportive of doing everything but not supportive of doing one little piece. I opposed the official plan and I opposed the zoning bylaw.

On February 3, a letter was sent out stating that the council of the day had approved the zoning bylaw, and I was advised by mail that I would have until February 23 to lodge any objection.

I refer to the schedule of dates, which you would know as page 9. For 423 Division Street, the council adopted an official plan amendment on January 18. Notice of the OPA adoption was sent to the Ministry of Municipal Affairs on February 1. They sent a notice of the passing of a bylaw on February 3. Municipal councils don't have to advise anybody, you know, in writing that they'd passed an amendment to an official plan. They sent the package to the ministry on February 17. This is the official plan. The last date for appealing the bylaw was February 23. I appealed the bylaw and I appealed the official plan. I went to the town offices and was told that the official plan had to go to, at that time, David Cooke, so I sent off a letter to David Cooke voicing my objection.

This is where the situation comes up. The town sends, on February 17, by some method—I assume it would be courier or mail—a package, a change of official plan. The last date of appeal was February 23 on the zoning bylaw. The OPA was approved by the ministry on February 24. That's, what, six days. No one works six days straight. You work five. So two of those six must have been a weekend. So in four days, that parcel left Cobourg, got right to the minister, who hammered it in four days. Now, how do you expect anybody to use the mail to send an objection to the ministry if he's going to approve the thing before the mail has left town?

My situation here is, the ministry should be made aware by the municipality that there was someone speaking as an objection so that they could wait for the regular mail. Give them 10 days, two weeks. What would have been so wrong if this has gone two weeks? They would have received my objection. Maybe nothing would have changed, but at least I wouldn't have had an objection that arrived a day early or a day late. This is incredibly fast, folks, for the ministry to react: 24 hours. In twenty-four hours the ministry approved this OP change.

The problem here was addressed, and you'll see there was a hearing on the zoning, but the fact that the official plan was changed made my objection to the zoning unimportant, because now the zoning did meet the official plan.

We go on to the next one. Each one I have a suggestion on here which I believe would be a good idea and you could put it in.

1440

The next one I'm going to discuss is lack of motivation, lack of motivating reasons. You have placed in your bill and in previous legislation many motivating reasons for municipal councils to react, but you've got nothing in there that says their employees have to react.

I bought a piece of property that I told you about in the town of Cobourg. In 1989, a bylaw was approved by the municipal council to support the rezoning of property. Notice was sent out, as required, to the people in the area and they objected, which was proper. After the objection was received and I was advised that there had been objections lodged, I asked how long it would wait. Who did I ask? I asked the clerk's office, I asked the planner, I asked my lawyer and I asked my planner, and they said, "It's probably going to take four to six months before you get your hearing." "Fine." Every now and again, I'd phone up and, I'd ask, "Anybody heard from the Ontario Municipal Board when this hearing..." Nobody ever heard.

I waited seven months, folks. Seven months, I waited. I thought: "Well, what are members of the provincial Legislature for anyway? They run offices in town. I'll phone them up and find out what's going." So I phoned up the office of the member of provincial Parliament. They investigated. They got hold of the Ontario Municipal Board. They didn't know about anything. They'd never received any package.

Mr Gerretsen: It probably got lost.

Mr Tredree: Well, I wish it had got lost.

Mr Gerretsen: Who's in charge over there at the OMB?

Mr Tredree: I went back to the municipal office. After some looking around, it had been misplaced. They'd misplaced the darn forms in the town of Cobourg. It never went out.

What am I going to do? There's nothing in the current laws which state I have any rights to go after anybody, other than I can jump up and down, I can get mad, red in the face, have a heart attack or otherwise. There's nothing in there to say that any municipal official or any servant of the municipal government has to within a certain time do his job. If you give them 45 days, they could have—and this was a much-publicized zoning thing, there were groups of people. I mean, it wasn't some quiet little affair. It was well publicized.

So you've got to enact legislation which says that the municipality and its officials have got to be responsible to see the work is done. How can you be blamed for being slow if you haven't got the thing to act on?

I say 45 days, and they should tell the applicant or the one who is wanting the rezoning that it's been done. I should never have had to rely on that. I should have known, in my heart of hearts, it was done. And if it isn't

done, I believe it's in section 67.1 you have penalties that are imposed, and the penalties should be imposed on the official, the people, not on the municipality, but the people who aren't doing their job should have to be responsible. I know it is in health and I know it is in other things, but it should be done at the municipal level.

My last section has to do with motivation of provincial government agencies, including municipal, environmental, health, conservation and transportation. What's happening is, when you make application for rezoning, the municipalities send these forms out to some 30 or 50 agencies, and they all are supposed to reply. What if they don't? What if they don't reply? What if they're too busy? What if they're understaffed? What if they're worrying about budgets? What if they're doing all these things? How are they going to find time to do their job?

My suggestion is based on the following: Once I had the rezoning done, it was naturally—as you know, in the previous Planning Act, you can put it in a holding zone pending site plan. Also, there was some concern about stormwater management. The engineer of the day said, "Got to have a storm sewer." But things have changed. A lot has changed. Environment has changed and the rules have changed and the focus has changed so that the people who create stormwater have got a management on site.

We had an engineering survey and report done. It was handed to the Ganaraska conservation authority and the town in September of 1994. You have a covering letter in your package which gives you exactly the date and who it was sent to and who it was sent by. After some discussion, the engineer, in June of 1995—June of 1995; from September 1994 to June 1995—approved it. The town approved it 30 days later.

My point is, what you're doing with budget cuts, you give conservation authorities tremendous authority over development, then you cut their budgets. Who's going to do the work? And if they can't do the work, they should be required within 30 days to tell somebody. "We just can't do this work." But, you see, they're not.

There's one water resources engineer in our local Ganaraska conservation authority. She was responsible back then for three conservation authorities. So she'd look at my file on Monday, plus however many others, then she'd be gone to Peterborough or somewhere else on Tuesday and she'd be in Lindsay or somewhere else on Wednesday and Thursday and then maybe back for half a day in Cobourg or Port Hope at the Ganaraska on Friday. It's a wonder I'm still not waiting. The thing was, she was responsive, and I'm convinced they were doing their job to the best of their ability and to the best they could under the circumstance.

If the government of the day is not going to give these people the tools to do the job, don't give them so much authority. But for heaven's sakes, there's got to be a minimum amount of time, 30 days.

If I ask my lawyer a question or if I ask my planner a question or if I ask my engineer a question, or if you ask yours, if you were in my position, do you sit down and wait for six months to get an answer? I doubt it. If you did, you'd have another one, but I can't go and pick and choose who I'm going to have. I can't go and say: "Well,

I like what's going on in Victoria-Haliburton a lot better than what's happening in Ganaraska. I'll use their people. Or maybe I'll use somebody in Windsor or somebody else somewhere else where they've got more research staff."

All I'm saying, folks, is that you can change these things. You can make the employees responsible. Within 30 days, they should have a report sent back.

This is still ongoing, but at least we're at site plan, and I can't blame the politicians because they're trying, and you folks are in the same boat as me: You can only go as fast as the slowest person working for you. And I tell you, I don't know how you're going to get rid of that slowest person. I assume you're trying, with the way you're going. But I'll tell you, fellows like me, it's a darned good thing that I'm not, like I told you, depending on my livelihood.

I've summarized on page 8 remedies for the situations that I have currently gone through and am going through. I'd like to read them to you, and I'd like to read my summary. I'm trying to present to you in an honest and simple manner—I'm not a lawyer—six ways that I believe shall be of use when you're trying to accomplish your goals as you're setting out in Bill 20:

(1) Remove any uncertainty as to the fact the ministry only recognizes the provincially approved official plan and provincially approved amendments to it. Require all municipal governments to do the same. Don't leave it to the planners, for God's sake. Don't do it. If so, they should be here at this table. You have got to make the ultimate decision. Don't let go of the reins.

The Vice-Chair: Mr Tredree, I should remind you you have half a minute left.

Mr Tredree: I'll speak fast.

(2) Land owners should be informed by certified mail should the council adopt an amendment to a provincially approved official plan in the case where the land owner did not request such an amendment.

(3) All those who present themselves at a public meeting for an official plan amendment must be notified by mail of its passing and the complete procedures for making an appeal to the amendment.

(4) No amendment to an official plan can be approved by the ministry until 10 business days have passed to allow mailed appeals to be received.

(5) When an objection is filed within the required period, the municipality must forward the required documentation as currently specified to the OMB within 45 days of the last day for accepting objections.

(6) All agencies funded fully or in part by a municipal, county or provincial government that are required to report under any section of the Planning Act must make a complete analysis, then request specific appropriate additional information required to complete the report, if necessary, within 30 days from the date the request is received.

Ladies and gentlemen, I thank you very much for your indulgence. I really appreciate the opportunity to come here. I hope you really will take a hard look at some of the information that I've given you, and have your people take a real hard look at it. It really is simple, and you will remove the places for people to hide. Don't let them hide any more. Make them get out, make them be respon-

sible. Government is a business and people in it have got to be responsible. I thank you.

The Vice-Chair: Unfortunately, we've expired the time. There won't be any opportunity for questions, but we do thank you very much for coming this afternoon.
1540

TAXPAYERS COALITION BURLINGTON

The Vice-Chair: I would like to ask the Taxpayers Coalition Burlington to come forward please. Good afternoon, sir.

Mr Ray Rivers: Good afternoon, Madam Chair. I would like to thank the committee for fitting me into this slot. I found out yesterday about 10:30 that I could get in here because the spaces in Hamilton, close to Burlington, were all filled. So we're pleased to be able to come forward.

The Taxpayers Coalition has about 600 members on our list. We believe we represent more people, those in Burlington who are concerned. We have worked on issues like development charges, where we are strong advocates. We worked to fight market value assessment, which we believe to be unfair, unstable and costly, and we have fought many proposals that deal with continued urban sprawl. That will be some of the gist of the paper.

My comments are almost entirely directed to the draft policy statement on land use, which, if accepted, would become the major policy direction for municipalities to follow under the new act. Given the potential significance of land use planning in Ontario, I was very disappointed when I reviewed the draft policy. The paper looks as if it had been written 30 years ago, in the age before we all discovered that there are costs in destroying the environment and subsidizing new development on the backs of existing taxpayers. Adoption of this policy statement would lead to a repeat of the highly wasteful and inefficient development pattern that has historically plagued this province.

The idea of sustainable development was best articulated by the World Commission on Environment and Development. Its definition is "development that meets the needs of the present without compromising the ability of future generations to meet their own needs." Sustainable development is about how the choices that we make today will impact on the future, on our children and their children. Sustainable development is not just about the environment; it is also about sound long-run economic development opportunities that will ensure that all of our economic resources, be they anthropogenic or natural, contribute to the highest standard of living that we can attain.

The concept that all development must take place only on a greenfield may have been convenient in the 1950s and 1960s but has no place in urban planning for the 1990s and beyond. Urban sprawl is the most costly form of development. Pamela Blais, working on behalf of the Greater Toronto Area Task Force, has confirmed earlier work on development options for the greater Toronto area—and work, I might add, that's happening throughout the United States—that demonstrates beyond any doubt that urban sprawl is the most inefficient form of urban

development. I encourage this committee to review that work before it concludes on this matter. Ontario's sprawl has led to a lower quality of life as manifested through increased traffic congestion, increased pollution, struggling downtown city centres and higher taxes.

While urban growth and urban spread may have been desirable goals for a Canada that was growing into nationhood, growth for its own sake is unsustainable on a finite planet. Thus, any rationale that senior levels of government might have used for subsidizing development in the 1950s and 1960s is no longer relevant. Similarly, cross-subsidization at the local level by existing taxpayers is inappropriate—cross-subsidization where existing taxpayers pay the costs for new development. Subsidies distort the marketplace and lead to poor and inefficient decision-making. As a result of this cross-subsidization, the history of urban sprawl has been costly in terms of increased property taxes. The requirement for development charges that reflect the full costs of new development, both hard and soft costs, must be part of a new land use policy.

There's one other policy area that I will talk about, which is the area of agriculture. Given that I had about 26 hours to consult the rest of my board—that is the one area that we haven't had extensive discussions on—I prefer those comments on agriculture to be seen as my own. I was raised on a farm and also farmed for about nine years.

Let me deal with the principles: The idea of land use policy to stimulate economic growth, as defined in principle 1, is outdated and it's flawed. Land use should support socioeconomic development, including growth; it need not stimulate it. The idea that the economy will boom if we can only convert more farm and natural land to buildings is flawed; it's outdated. This strategy will only exacerbate a recession. An economy responds to the market forces of supply and demand. Developing land in the absence of a market for housing is not only environmentally irresponsible, it's also bad economics. Adding more houses to a saturated market will just lower the value of everybody else's house—the entire community's housing stock.

Principle 3 is inadequate. It fails to address the costs and risks of urban sprawl in terms of greater transit and other living costs, social costs of fractured communities, air and other pollution, traffic congestion, personal safety and loss of green space that, all together, contribute negatively to the quality of life for residents of Ontario.

The principles that are proposed ignore the wishes of the population for healthy and sustainable communities. Once land has been committed to development, it is extremely difficult and costly to ever reverse that. I suggest that the current principles are poorly considered, biased towards development at any cost and apparently lacking in an appreciation of the long-term impacts of urban development.

Below is an alternative set of principles that better reflect the age we currently live in and the knowledge we have accumulated on the relationship between economic development and environmental protection. I suggest that emerging studies on the high cost of urban sprawl be recognized by this committee. It is most ironic that such

different papers as this draft policy, which aims to increase urban sprawl, and the report of the GTA task force, which proposes measures to minimize it, were released almost simultaneously by the province.

I'll just read those principles briefly. Ontario's long-term economic and environmental health with regard to land use depends on promoting development that ensures that the needs of future generations are not compromised by any changes to current uses of land—my highlight is on “changes to current uses of land”—in the province. This can best be effected by observing the following principles: (1) protect, preserve and promote conservation and restoration of natural areas of fish and wildlife habitat, including forests and wetlands; (2) protect and preserve agricultural land for future generations to use as agricultural land; (3) encourage the efficient use of land in built-up areas of the province, and new development as redevelopment within the existing urban footprint of Ontario, and (4) ensure that the full and long-term costs of new development are fully paid for by those undertaking changes in land use.

With regard to the policies, first of all, the current use of existing developed land is extremely inefficient. There is probably a 100-year supply of development and redevelopment potential within the current urban footprint. So the need to have a 20-year supply or even a 10-year supply is not there.

Regional planning that accompanied regional government brought in by another Conservative government some 20 years ago was partly intended to restrain urban sprawl. It had the very opposite effect as regions designated and then almost immediately converted huge tracts of farm and natural lands into urban sprawl. Let us learn from that lesson. Now is not the time to repeat the mistakes of that exercise. There will never be enough land if we continue to use it inefficiently.

Thus, there is no need to set up specified greenfield land reserves at the municipal level. Second, there is no need to remove any land from agricultural uses for other forms of development. Expansions into and conversion of agricultural land to uses other than restoration of natural lands should be prohibited. All references to providing sufficient lands over a planning horizon of 20 years should be removed from the policy statement.

Second, if the term “cost-effective” is to be meaningful to taxpayers, then developers must pay the full cost of development. A requirement for development charges must be included in the policy statement, I believe.

Third, it is arguable to suggest that some municipal planner, and not the marketplace, is the best allocator of housing supply, ensuring the best mix and range of housing types. This is particularly true if the developer has to pay the full market costs.

With respect to resources, I reiterate the point about agricultural land. There should be a clear and total prohibition on converting agricultural land. It cannot be justified that more land needs to be converted into housing stock. The exemptions proposed in the draft are just not necessary any more. The era of farmers retiring on to a lot from the family farm is ancient history. That era is almost completed. There's a greatly diminished need for maintaining that loophole to sound land use planning.

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The concept that mineral extraction in prime agricultural lands could be followed by rehabilitation of the site is ridiculous. It is not conceivable that one could convert a three-storey-deep quarry hole back into a corn field. It just won't happen. This clearly requires more thought and another process that would involve weighing the options between mineral extraction and agricultural use.

It appears that the permission given under this draft policy for developers to destroy fish habitat may be in conflict with federal policies that dictate no net loss of habitat.

In conclusion, empowered municipalities should lead to more responsible local planning decisions. We support the move towards further empowerment of local municipalities, but only if they have clear and unequivocal direction from the province on sound land use principles. This draft policy statement fails badly in that regard.

In addition, empowerment is threatened by the role of the Ontario Municipal Board. The board exempts, distorts and absolves responsible decision-making by municipalities every time it lays down a final decision, thus disempowering municipalities. The role of the board must be redefined to encompass only issues of process at the municipal level. This unaccountable special-purpose body should no longer be the final decision-maker on the substantive issues of land use when we have professional municipal planners and elected politicians to do that job.

In conclusion, this draft statement requires considerable work to bring it into the 20th, let alone the 21st, century. I recommend that you commence by rewriting the principles to reflect sustainable development. I suggest further that you focus on efficiency, as you appear to want to. Efficiency is not simply a matter of ensuring that there is abundant cheap farm land available for conversion into urban sprawl. Efficiency means respecting the economic principles of demand and supply, it means long-term thinking and it means that development decisions taken today must be sound enough to not present the kinds of problems that we see with the grown-up plans of yesterday. Land use plans must lead to a better kind of development—sustainable development. This draft does not.

The Acting Chair (Mr Bruce Smith): Thank you very much for your presentation. We have just under three minutes per caucus for questions, and we'll start with the official opposition.

Mr Gerretsen: Thank you very much, Mr Rivers, for a very interesting presentation. We certainly haven't had this kind of presentation during our deliberations over the last couple of weeks.

I'm struck by one statement you make in there, and it leads back to the two previous presentations that we had. It's that we can talk about process all we want, but unless there is clear direction, not only from a policy viewpoint but also from an internal process viewpoint, we basically get indecision, which is I think what the other two gentlemen were talking about, the thing being up in the hopper for years and years, and what do you get? Nothing. Indecision. It's a self-propagating kind of situation. How would you see that working with respect to the notions that you have encompassed in your brief?

Mr Rivers: I think when you want to empower, when you want to get to quicker decision-making—and I do sympathize with those comments because I think they're absolutely on the mark—what we need to do is to clearly have empowerment of delivery at the municipal level, but clear direction as to what they deliver coming from the province.

I think on the land use, my comments, as harsh in some cases as they are, are really because I would like to see a land use policy paper that is very directive, that says, "These are the things that you must do in terms of absolute absolutes." Then there is no indecision on the part of the municipal decision-maker. There is no ambiguity. If you minimize the ambiguity that the municipal decision-maker, who's been elected to make it, has, then he or she has a lot better chance of making the right decision. I think that will simplify the process. That will prevent the kinds of appeals that have been going on.

My comments about the Ontario Municipal Board—I have watched development proposals that go up and people are afraid to do anything about it. They simply let them pass because they think the OMB will overturn them, or they think the OMB will add to them or they think the OMB will approve them. I think that's the wrong way to have planning in this province.

If the OMB is to be the final planner in this province, then we should get rid of all the planning staff at the municipal level. We clearly need to have one system of planning and that should be at the local level, responsible to local politicians who are elected to make those decisions. I think the more we can do to move in that direction, the better we will be. But they clearly need to have an overall provincial standard, a clear provincial direction in terms of what they should be doing and not be doing. That's where the role of the land use policy paper comes in.

Mr Bisson: I never thought I'd see the day where I'd come to a meeting and agree with a taxpayers' coalition.

Mr John R. Baird (Nepean): Normally you're not supportive of taxpayers?

Mr Bisson: No, it's just I have a bias, obviously, on certain issues. I think you've actually touched the problem. The problem is as you describe it. I have a couple of concerns, however. I could agree with what you're saying if you had really clear policy and you could set out a clear direction and everybody understood what the rules were. Then you say at the local level or regional level or whatever: "Go out and do the job. You're entrusted to do it. Do it well." How do you deal with the situation, as it happens now, where a decision is made at the local level that might not be in keeping with the policies? You have to have some sort of an appeal format. How would you deal with those?

Mr Rivers: I think that is the role of the Ontario Municipal Board, or if you wanted to get rid of the board entirely, there would be a legal process that could be involved through the courts.

Mr Bisson: So you would still favour some sort of an appeal process.

Mr Rivers: Oh, absolutely, but on process; strictly on the process side of it.

Mr Bisson: Okay, I agree, because I've seen it from both sides, both the developer's side and the people who

raise concerns where, for whatever reason, a municipality decides to turn a blind eye or turn an eye to an issue one way or another.

The other thing is that you made a comment in here that needs some explanation. You talk about, "There is no need to set up greenfield land reserves at the municipal level." I'd like you to explain that a bit in light of your presentation. I don't want to leave here misunderstanding what you're getting at here.

Mr Rivers: My point is that the whole planning process we underwent from the 1970s on was intended to go on and on through a large number of years, almost indeterminately into perpetuity. We'd set up land divisions: This land would be for development land, residential, industrial; that would be for agriculture; and that would be for other purposes. That process simply fed the whole urban sprawl process and we ended up with a tremendous growth in urban sprawl happening.

Mr Bisson: Don't you still need some sort of an official plan to say, "This is where it makes most sense to have that subdivision go up, rather than next to the aquifer" or whatever?

Mr Rivers: Absolutely, but I think where we should be looking for land is within the confines of our own inefficient development today. The potential for redevelopment is so great and is so needed. That is where we ought to be focusing. The high density models, the forms of development that are efficient in terms of giving us a lower cost of living in our communities and a higher quality of life are the ones this policy should be focusing the municipalities towards.

Mr Bisson: I understand where you're coming from. The last question is, you're talking about development charges; you're saying that development charges should be passed on to developers, not in the tax base.

The Acting Chair: Mr Bisson, sorry for interrupting. Mr Carr.

Mr Gary Carr (Oakville South): Thank you very much, Ray, for making the trek all the way in from my area of the country, from Burlington. We're sorry you had to do that, but we appreciate it, because as was mentioned by my colleague, you did bring a different spin that we hadn't heard. I think you're right too about the policy statement being the most important part of this.

In terms of putting it together, if you get the changes you'd like to see in the policy statement, in conjunction with Bill 20—I recognize that's a big if, if you get some of the things in there—those two combined, do you think we can come up with something that you and your organization can then find acceptable to support, if we were to do that?

Mr Rivers: I do. I think the semantics about "with regard to" and "consistent with" are one thing we have to deal with. I would see a strong policy statement, a set of statements perhaps, that clearly require that municipalities pay attention to them and respect them. Then, having said that, it's clearly their responsibility to implement them and we don't constantly have to have them going back for approval to the provincial level or, God help us, if the regions still continue to exist.

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Mr Carr: That would be a debate for another day, I guess. I take it your organization's position is that the

lower-down levels are far better, that decisions in Burlington would be better, made with the input, because I know you and your colleagues are there on a lot of things, that you can have more input than you can by some bureaucrat in Queen's Park making the decisions.

Mr Rivers: That's absolutely correct. We see the Halton region's role in planning as having been dysfunctional to planning processes within our community. We think that we would have had a lot more accountable decisions being made had Halton region not been playing a role in planning and not been involved in planning.

Mr Carr: Good. Good luck and have a safe trip back.

Mr Hardeman: Carrying on with what Mr Carr was talking about, going back to his if the policy statements were written in such a way as to meet your request, would it still require "to be consistent with" or do you feel the local municipalities would be able to deal with "having regard for" those and then be able to adjust or deal with them as they meet their local community? Would you have enough faith in your local politicians to have that happen?

Mr Rivers: I think you need to give clear direction. That's the important part. When you come down and say, "It has to be this way," who is going to respond to it, the people who elected the politicians, who have been given clear direction that they are seen to violate? Is that going to be the response or will it be some other process with the province?

The other question is, if there's an appeal to the OMB because someone deems the municipality has not given due regard or been consistent with, how is the OMB going to respond? I think you need to weigh those. I would prefer the stronger one, quite frankly, because I think it gives a much clearer signal to the municipalities.

The Acting Chair: Thank you very much, Mr Rivers, for your presentation and for appearing today.

COBOURG AND DISTRICT CHAMBER OF COMMERCE

The Acting Chair: Our next delegation is the building industry network and environment committee of the Cobourg and District Chamber of Commerce. Good afternoon, gentlemen.

Mr Bob Clark: My name is Bob Clark. I am co-chair of the building industry network and environment committee of the chamber of commerce, and with me is Frank Godfrey. Our presentation to you will be a two-part presentation. I believe you have some written material in front of you; I'll go through the first part of it; Frank will follow up with the concluding remarks.

I'd first like to explain that the building industry network and environment committee is a standing committee of the Cobourg and District Chamber of Commerce. Our mandate is to reflect the interests of the chamber of commerce members on issues related to the building industry and the environment. The juxtaposition of these two apparently conflicting points of view—and I underline the word "apparently"—has opened a rather interesting and I think valuable discussion on the issues that face our community of Cobourg.

By way of background, we've been involved—certainly I've been involved. I'm a professional planner. I've

been involved in the discussions leading up to Bill 163 and would reflect on the fact that there was considerable public input to that, beginning with Crombie's commission and finishing with the Sewell commission and ultimately the bill itself.

The concerns which have been expressed by members of our committee in the discussions we've had with them have been highlighted in the four points provided here: the lessening of the importance of the environment; the ability to ignore provincial policy is another concern we have; the apparent withdrawal of the province from the planning process, and I again underline the word "apparent"; and the potential for confrontation and appeals, which we believe the amendments to the Planning Act have the potential to set up.

By way of elaborating on those points, with respect to the environment and environmental reform, there is a perception in the material that I've read that there is lessening importance of the environment. I think we need to be careful because, as we'll reflect here and as also the previous speaker has indicated, we believe that what is required is a solid set of guidelines or rules within which we can operate.

It has been accepted, and even from the development industry, I believe what they're telling us is that working within a set of guidelines is what—they want to know what the rules are going in. They don't have any problem meeting the expectations as long as they understand them and they don't change as they go through the process. So what we're looking for, and the suggestion at least here is, a proper balance be maintained between development interests and the environment.

We've reflected on the issue of guidelines and one of our thoughts was that the province, through the Sewell commission and Bill 163 and the comprehensive set of policy statements, started down the road to prepare a set of comprehensive guidelines. We don't claim they finished the exercise by any means, and we're not altogether satisfied with the result as it existed, but at least it was a start, and abandoning that approach, for its comprehensiveness and for its reliance on guidelines, we don't feel is the correct way. We feel it can have dramatic consequences, and particularly we reflect on our own community which is a smaller community without the benefit of a regional level—we'll talk about that in a moment—of government to provide the broader context within which local planning can be done.

With respect to our comments on the province appearing to remove itself from the process, it's not clear how effective this removal will be because in our reading of Bill 20, there is still a lot of Bill 163 in place. The biggest move seems to be the re-establishment of the "have regard to" approach, and as we'll reflect on in a few minutes, we're not so concerned with the wording but with the attitude the wording brings with it. If it's an attitude of being able to ignore, then we have concerns.

The delegation of authority causes us some concern, and as was reflected by the previous speaker, some levels of regional or county government have not been as accountable as local governments have been.

Consultation with agencies has been an ongoing problem. We are concerned about a shortened timetable

for that consultation if it means we won't get consultation or effective consultation. If there is a limiting of the means of addressing the agencies, we are concerned about that and we are particularly concerned about staffing limitations, which has nothing to do in particular with Bill 20, but has to do with a lot of what's going on these days in provincial staff.

Again, and we'll emphasize this several more times, we are asking what the rules are, and need to know what the rules are, and the delegation and removal of the detailed guidelines is a concern, and local autonomy, but we ask the question, how much and within which guidelines?

Again, reflecting on the issue of guidelines, the quality control measures were being addressed in Bill 163. We acknowledge that work remained to be done, but at least they were building on a broad consensus.

In summary, we believe there is a legitimate role for the province in the planning process, but that does not remove or mitigate against local autonomy. What is required is the establishment of clear rules and the examples that we have used are floodplain policy or food land guidelines where we've seen implementation at the local level which establishes that autonomy.

One question we would suggest to you is that in your consultation you might consider asking municipal representatives when was the last time they discussed the effectiveness of their own planning program with a provincial representative. What we mean by that is we seem to be focused on issues, focused on particular problems, but in my experience do not often back up and look at the effectiveness of the planning program itself.

Very briefly, intermunicipal guidance is required, and if it's not available at county or municipal planning authorities, then who provides it if it isn't the province? To re-emphasize, in point 7, we believe there is a legitimacy to the province as a planning authority. We believe that one of the results of Sewell's work was to say that there is a legitimate policy approach, and the previous speaker was quite eloquent in putting forward that point of view.

We foresee the opportunity for appeal and confrontation if the issue of delegating to locals is without a framework for discussion. If there is not firm guidance and policy, we believe that delay is a legitimate tactic—as you've heard from the earlier speakers a couple of speakers ago—that delay becomes a legitimate tactic for defeating a proposal. The proposed changes, as we see it, are more to the issue of attitude: What attitude are we bringing to the table? Our suggestion is that perhaps Bill 20 under the issue of attitude will lead to protracted site-by-site battles, with increases in costs and in the frequency and length of hearings.

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Just so we're not totally negative, we do comment very briefly on some of the details.

The appeal period shortening we support. They're not as short as they were before Bill 163, particularly with regard to referral of private official plan amendments to the board.

We support the removal of a public meeting for subdivisions.

We support the complete application requirements, but are not clear on how that's to be expressed.

The provisions for sewer and water allocations in subdivision approval we believe are reasonable, but we need some direction.

As to the removal of the prescribed contents of an official plan, we're not sure that isn't a backward step.

We support the removal of prematurity as a basis for refusal.

Also, we're concerned about council as the final arbiter for minor variances if that will limit access to the Ontario Municipal Board.

Mr Frank Godfrey: I'd like to mention that two of the previous speakers, obviously disgruntled developers, are also members of our chamber of commerce.

We'd like to engage you in a discussion of the one issue which is, in our opinion, fundamental and sets the tone for Bill 20. In our opinion the major concern in Bill 20 is the attitudinal shift as expressed in the change from "be consistent with" to "have regard to." We acknowledge that the change, as it applies to provincial policy statements, reflects the wish to fulfil promises towards disentanglement, municipal empowerment and, ultimately, local responsibility or stewardship.

In our opinion, these are worthy goals. Wise land use decisions can be accomplished at the local level, provided the province continues its role as the collector and developer of best practices and policies as expressed through provincial policy statements, and further, that these policies adhere to the principles of sustainable development. The ongoing necessity to develop best practices and policies is a concern which falls within the realm of provincial ministries. Clearly, municipalities in Ontario, most of which have less than 5,000 in population, as I understand it, do not have the resources in-house for these matters. We believe the people of Ontario fully expect the province to handle matters of provincial interest.

For the development industry, clarity and consistency in land use planning is of paramount importance. Successful developers are extremely focused people, with stringent time lines and clear goals.

When passing through the various stages or gates of the regulatory maze, no good developer would ever complain if he or she were confident that the best interests of our society were being addressed. The product of the industry, be it a house, condominium or country club, must epitomize the best interests of the buyer in the fullest sense of the phrase. If development in the abstract is advancement from a lower to a higher state, a growing, evolving kind of thing, is it appropriate to expect the necessities of ecosystem or watershed approaches in land use to be protected by individuals, without clear rules? Individuals are parts of systems.

In the 19th century, our society built charming communities, often building over streams and filling in wetlands. In those days, we were not forced to consider the health of the ecosystem. Times change. A friend asked me once, "What's so wrong with what we did then, considering the charming towns we have now?" Well, in those days we also pumped raw sewage into our streams, something which is, or should be, unthinkable today.

Regulations should make us do the right thing. Deregulating without clear guidelines solves nothing. Reducing all the complexities to the philosophical dialogue of public interest versus property rights is useful only in the sense that sustainable development is the only goal that can possibly work. The balance has to be struck between these two forces, and it can't be achieved if the province steps back. These are our concerns.

Mr Len Wood: On the wording change to "have regard to" from "be consistent with," we've heard, in the two days I've been involved, 90% of the presenters say that the province should have a policy, it should be laid out clearly, and any development should be consistent with that; never mind having the fuzzy words "have regard to" and letting the Premier and the Minister of Municipal Affairs and Housing dictate from the top. And they can just ignore that; they've had regard to, but that doesn't mean anything. Everything is going to bulldoze ahead, like they did with the bully bill, Bill 26, with no public consultation, just ram it through. I just wanted to make that comment in support of your presentation.

Mr Bisson: I don't know what to think about Cobourg. First the fairtax commission, next the chamber of commerce, and we're in agreement. That's pretty interesting, for New Democrats anyway.

I'd just echo the comments of my colleague Mr Wood. I also want to bring your attention to page 2 and make sure I understand what you're saying. You say, "The province appears to be removing itself from the process," and then: "It is not clear how effective this removal will be. There is still a lot of Bill 163 in place." Your brief seems to be not so much in support of Bill 163 but the principles, I take it is what you're getting at.

Mr Clark: I think what we're getting at is that 163 led us down the path of looking at specific guidelines. What we're concerned about is that we seem to be moving back from that. That's the issue here. But a lot of 163 is still there. Provincial policy interests are still established there. In our opinion, the most significant part is that the wording change seems to suggest an attitude towards policy, and it's the attitude we're concerned about.

Mr Bisson: You said you're a planner by trade, and there were some comments before. I don't think the problem is the planners. I think the problem is that we need to have consistent policies that the planners work towards. I tend not to blame the planners and the bureaucrats for the biggest part of the problem, because they're only following the direction set out under the Planning Act. I just put that on the record. We need clearer policies. That's what it comes down to.

Mr Clark: On behalf of planners, I thank you for that.

Mr Murdoch: I guess I must have been in a different committee from Mr Wood for the past few days, because his figures are a little distorted. That's fine. He thought he got a 90% approval rating, but I'm afraid he must have misunderstood a lot of people.

On page 2, you mention severance policy and use the example of Grey county. Maybe you could explain that, because I happen to come from Grey county.

Mr Clark: The issue with severance policy, at least from my experience, has been that there's been a lot of ability to deal with it locally without absolute or firm

guidance from the province, and then the province, for whatever reason, decided it needed to step in. It made an example of Grey county; that was the most obvious place, which is not to say it was the only place. I don't believe it's good enough to step in after the problem. I believe there needs to be the guidance up front. What I have learned through my experience as a planner is that the province's role is to provide some of that backup and support for the local decision-maker.

Mr Murdoch: There wasn't a problem there; they didn't need to step in. I'll remind you of that. There wasn't a problem there. The province created the problem in this case. I could point out that Hastings, which isn't that far away, actually had more severances than Grey county. Unfortunately, as you said, they picked Grey. I don't think it was the obvious choice either. Well, with the socialist government, it might have been. I just thought we'd better clarify that, because there were a lot of other places, and the government thought it could make an example of us.

Mr Clark: I accept your clarification.

Mr Murdoch: It didn't work either; they tried to take over, but it didn't work.

I think the new words will give back local autonomy. I know you're concerned, but before they changed it so you had to be consistent with, the province had then, as it does now, the chance to take someone to the OMB if it's felt they do not have regard for. The problem we hear time after time from developers, and other people too, is that the process is too long. We're trying to streamline it with a one-window approach through Municipal Affairs. That's not to say that the Ministry of Environment and the Ministry of Natural Resources can't sit down with Municipal Affairs and say, "Look, this is not adhering to what we'd like to see, so we'd better either take this to the OMB or sit down with the developer and try to work it out." But it still does give some local autonomy, and if we don't get back to that, I think we're in real trouble. The people who get elected in local municipalities are closer to the people than anybody, after all, and this is what we're trying to do here.

I will agree with you, though. I think there's too much of Bill 163 in Bill 20. I'll agree with you on that.

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Mr Gerretsen: I'd like to first of all congratulate the chamber for coming up with a brief like this. When you go around the province for a while, you pretty well know where every interest group of a particular kind is coming from, and yours is totally different from what would normally have been expected from a chamber of commerce, which is very refreshing. It's maybe because we're in Cobourg, which is a very historic and beautiful city, especially its downtown. It's obviously a situation where the development community, the general public and the municipal council have worked well together over the years to make sure you retain the kind of downtown you have here, of a very historic nature. What's probably made it happen is that people have stepped out of their expected roles into something better than that, to try to actually work things out.

That's the kind of thing I've been talking about over the last two to three weeks, particularly this whole notion

of guidelines. There have to be guidelines, and there have to be internal protocols within ministries so we can make it work, not to have the kind of experiences the other two gentlemen had. I know nothing about their developments; their developments may very well have been totally inappropriate. But somebody very early on in the game should have told them that, rather than just stringing them along, indecision, nobody knows what they're doing, and it just piles up, money after money, and doesn't do anybody any good.

I want to congratulate you. It's not the kind of presentation we expect from a chamber of commerce, but it's highly refreshing to get it, because it obviously means it's working in this community.

Mr Clark: May I make one or two comments on that? My experience in this community is that there is an ability to discuss across lines. I support your notion, but I would phrase it that way. I find that the level of discussion here about municipal issues is quite open and quite thorough.

Second, I would like to go back to an earlier statement, and I think it relates to yours as well. The area of support that I believe a municipal council is looking for is access to provincial expertise and, as Frank has expressed it, maintaining the best practices in a catalogue so that the municipality can know it's on solid ground and proceeding in a reasonable way. I believe they do need that level of support to be able to continue.

Mr Gerretsen: We also have to get to the notion that the general public, in making comments on development, aren't always negative comments. Quite often they can make a development a much better development at the end result if their comments and attitudes and approach to this thing are taken into account. Too often, I think the development industry in general—there's this notion that if the general public gets in, it's something negative. That's at least been my experience, having sat on all three sides of the fence over the last 20 years: from a municipal viewpoint, from a developer's viewpoint and from a general public viewpoint. It can work well together if the parties really want it to work.

The Acting Chair: Thank you very much, gentlemen, for your presentation today.

SAVE THE GANARASKA AGAIN

The Acting Chair: Our next delegation is SAGA, Save the Ganaraska Again.

Mrs Katherine Guselle: I'm going to introduce myself by saying my name is Katherine Guselle, and I'm chair of the group called SAGA, Save the Ganaraska Again. I also have Niva Rowan, our secretary-treasurer; she'll be participating in any questions you might have.

Just so you'll have some idea of where we are coming from, I brought a picture which I'm going to pass around. This is Lake Ontario. This was taken from four miles out in space, and this dark area here is the Ganaraska forest. You'll see, as you get a closer look at it, the river coming through all the fields down to the lake. This is Port Hope, and that's Cobourg, where you are right now.

We really appreciate this opportunity to speak to you today. SAGA was formed in 1988 by citizens concerned

about bad planning. We were incorporated in 1989, and our current membership of 334 people and two large groups is drawn from Durham region and Northumberland county. Our objectives are attached. They're on the very back page of our package.

We're restricting our comments to the Planning Act section of Bill 20. Our comments on the rewritten policy statement will be submitted separately.

We've done our submission in five sections: We'd like to tell you why we are concerned; we'd like to tell you about SAGA's participation in the land use planning system; general observations on streamlining the system; some specific comments; and some conclusions.

Our home base is in the headwaters area of the Ganaraska River, which is the last pristine watershed in the greater Toronto area. Because of deforestation and insensitive agricultural practices in the last century, the area had become, by the 1940s, a desert of sand dunes, denuded landscape and flooding river. The Progressive Conservative government of the time then commissioned a study of the area, which culminated in the reforestation of a large portion of the watershed—11,000 acres—which is now the Ganaraska forest in the picture, the dark area in the picture. It's amazing that it shows up from four miles in space.

This was the first conservation project in the province and the model for all conservation authorities that followed. The passing of the Conservation Authorities Act and the creation of the Ganaraska Region Conservation Authority, which is celebrating its 50th anniversary this year, are the direct result of the last environmental crisis in this area brought about by inappropriate land uses.

Our home base headwaters area is also on the south slope of the Oak Ridges moraine. The Oak Ridges moraine is a land form of far-reaching hydrogeologic significance in southern Ontario. It serves as an important groundwater recharge area and filtration system which many rural communities and farming areas depend on for their drinking water. It also acts as the source for 18 major watercourses that flow into Lake Ontario and 12 which flow into Lake Simcoe within the greater Toronto area alone. One of those, the Don River in Toronto, is a prime example of the inexcusable destruction of our valuable water resource as a result of inappropriate urban development and related activities.

Durham's population is slated to grow to 1,100,000 in the revised official plan of June 1991. In 1988, over 1,000 acres in a very small, sensitive area in the headwaters, far from any other settlement in our region, was land-banked by developers hoping to cash in before the plan was approved. With almost no environmental data against which to measure or predict what this change in use could mean, and concerned about the lack of planning controls, we formed an organization to participate in the land use planning process and bring about sensible change. Hence our name: SAGA, Save the Ganaraska Again.

Today, we have as our economic base one of the most diverse farming areas in Ontario, because our water source allows us to farm successfully. We need our food lands; we cannot afford to compromise them. We have never been against development, just against bad development. SAGA has always supported comprehensive

planning on an ecosystem basis. To us, that means looking at the context in making planning decisions and predicting and monitoring cumulative effects. We believe that given the right environmental framework, we can have ample responsible development and the prosperity it brings. Particularly in these days of tight budgets and huge deficits, we understand the importance of wise development.

We've come today to speak from several years of experience in the land use system in Ontario.

At our beginning, we realized that environmental considerations were shockingly weak in the Planning Act of 1983, and applied for designation of the headwaters area under the Environmental Assessment Act. Instead of the designation, the Environmental Assessment Advisory Committee held a full type-A hearing on the planning and approvals process in the Ganaraska headwaters area. Their report was damning of the planning process in Ontario, was widely circulated for comment and received unprecedented public support for its recommendations.

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Several other initiatives have followed, largely on the strength of report 38.

The Liberal government named MPP Ron Kanter to do a greenlands study of the GTA and expressed a provincial interest in the Oak Ridges moraine, with implementation guidelines to be followed while a planning strategy was developed. The Royal Commission on the Future of the Toronto Waterfront, led by the Honourable David Crombie, in its interim report enlarged the area of study to include recommendations on the Oak Ridges moraine. This report endorsed the ecosystem approach to planning.

In June 1991, the Minister of Municipal Affairs of the then-New Democratic government announced the establishment of the Commission on Planning and Development Reform in Ontario, to be chaired by John Sewell. In her response to report 38 from the EAAC, minister Ruth Grier refers to its direct relevance to planning in the Ganaraska watershed.

SAGA has actively participated in all of these policy-making initiatives. We have also had successful input into the reviews of the Durham regional official plan and the municipality of Clarington official plan. We've twice fought development applications at the Ontario Municipal Board, one of which was a test of the Oak Ridges moraine implementation guidelines. When it comes to planning, we've been there, done that.

Before I begin to highlight some sections of the bill, I'd like to dwell for a few moments on some concepts that are being touted as the rationale behind Bill 20. These concepts are based not on logic but on fallacies, and like many fallacies, they're being used to promote biased, self-serving intent.

One fallacy is that to remove controls will actually streamline or speed up the planning process. With the weaker language of this bill, which I will address in a minute, the lack of requirement for compliance with policy takes away the element of certainty and creates a climate for greater confrontation, slowing down approvals and increasing costs for everyone involved.

The second fallacy is to think that it will restore the balance between environmental and economic concerns.

These concerns were never in balance until Bill 163. The balance was always skewed in favour of ad hoc processing of applications that gave no weight to environmental considerations.

A third fallacy is that environmental planning is bad for business, that business interests supersede the public interest in a healthy environment. In discussing Bill 20, Tom Stricker, president of the Greater Toronto Home Builders' Association, is quoted as saying: "Less is better. There will be fewer obstacles to building, and that is good. We need confidence that if you purchase a piece of land, you can do something with it."

I was taught by politics professor J.A. Corry, later principal of Queen's University, that any man's right to swing his arm ends where the other man's nose begins. This precept, upon which our society is based, means that you can only do something with a piece of property you purchase if it doesn't affect your neighbour adversely. That requires the land use planning process to ensure, through a system of checks and balances, that every form of development is environmentally benign.

Robert F. Kennedy has been quoted as saying: "We've been told time and time again that we have to choose between economic prosperity or environmental protection. That is a false choice. Good environmental policy 100% of the time is identical to good economic policy if we want to measure our economy on how it produces jobs over the generations. If, on the other hand, we want to convert our natural resources to cash and have a few years of pollution-based prosperity, we can do that. And we can produce the illusion that we're doing well, but our children are going to pay for our joy ride. And they're going to pay for it in terms of denuded landscapes, contaminated environments that they're not going to be able to regenerate."

And to quote from a Toronto Star editorial: "Good planning is in fact a spur to economic growth, while bad planning costs taxpayers. It encourages inefficient use of existing infrastructure and forces up the demand for more—sewer lines, highways, transit—to service far-flung developments."

A fourth fallacy, and a major thrust of this bill, is that municipalities can be relied upon to have the expertise and the political will to ensure that environmental issues are adequately addressed without provincial prescription. This is flying in the face of past experience, and at the very least will bring about inconsistencies that are so disastrous for cross-jurisdictional things like watersheds. There's always someone downstream or upstream, and they might have a different set of values that ignore the greater good.

A fifth fallacy is that our current Planning Act doesn't reflect what the taxpayers of Ontario want. The work of the Sewell commission on new planning for Ontario has to be seen as an admirable compromise between all competing interests. Bill 163 was reached with a great deal of public input, nearly two years of intense public discussion and compromise. By the time the final report was issued in 1993, 23,000 people had spoken directly to the commissioners. It is arrogant to assume that disregarding all this effort is really better for the province. It is irresponsible to scrap a lot of promising work based on

those new policies. Clarington's new official plan is proving that the policies are implementable, to give but one example.

Bill 20 was devised without any public consultation. You've arranged these hearings now. We hope that you're not only listening but also really hearing what we are saying. What we're saying to you is that to proceed with Bill 20 is shortsighted in the extreme, callously disregarding of the needs of the people of this province, and will set Ontario's land use planning back 40 years. In short, it's just plain wrong.

Now I'd like to address some specific comments on the bill. Based on all of the above, I will briefly touch on sections of the bill that are our chief concerns.

Section 1, narrowing the definition of "public body" to exclude all the ministries other than the Ministry of Municipal Affairs and Housing. This so-called one window approach, which will have the effect of removing the ability of other ministries to appeal to the Ontario Municipal Board, is wrong. Other ministries, such as the ministries of Natural Resources and Environment and Energy, deal with environmental and land use issues and need to provide meaningful input into the land use planning system. Presumably the intent is to filter their comments through MMAH, but that circumvents the public and makes the process more cumbersome.

Section 2: The power to prescribe other matters to be of provincial interest has been removed. It's imperative that the minister have the discretion to put on hold such things as controversial development to allow for further assessment. This is an important aspect of the checks and balances of our system. As stated above, local governments, particularly rural, don't have the expertise to assess sensitive areas, and often the political will is easily influenced.

Subsections 3(5) and 3(6): "Be consistent with" is changed back to "have regard to policy statements." To return to this ineffective wording is one of the greatest follies of this bill. In the past, municipalities have interpreted this inconsistently. Some have taken this to mean they can apply policy statements with flexibility, some not. All they have to do is look at the policy and do what they want.

SAGA has had its own experience of this. As previously mentioned, one of our cases before the OMB, although not relative to a policy statement, was a test of the guidelines for, and provincial interest in, the Oak Ridges moraine, which the chairman had to have regard to. The chairman stated that he had regarded the guidelines and then made the decision that they didn't need to be applied in their entirety.

The loss of this specific language means the inability to achieve upfront planning, a return to site-specific battles, increased uncertainty, needless delays, and costly and protracted OMB challenges. This is a return to "let's make a deal" development, ad hoc decisions, rather than comprehensive planning requiring consistency with provincial policy.

Section 5: The minister is authorized to relinquish approval of plans and official plan amendments. The province is not delegating its responsibility to approve plans to upper-tier municipalities; it is abdicating that responsibility. With the removal of the necessity to have

official plans be consistent with provincial policy, this abdication will undoubtedly result in plans being developed without sufficient environmental protections.

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Section 8: The power to prescribe the contents of official plans is removed. For the sake of clarity, consistency and certainty, it's extremely important for the province to give direction on the issues that need to be included in official plans. Only in this way will all major planning issues be addressed.

A background study for the Sewell commission had the following findings:

"Perhaps more significant is the fact that close to 87% of all applications for OPA applications to municipalities were approved and that only 3% of these were refused by the minister. Clearly many of the official plans involved were either provided little planning guidance and/or were used primarily as development control documents."

Also, they summarized from their interviews:

"Municipalities with high growth rates generally thought that official plans could or should be more specific to avoid or prevent numerous ad hoc changes."

Section 13: Regarding time frames for appeal rights, the right to appeal to the municipal board if the council or planning board does not make a decision on a request for an amendment within 90 days, this is far too short a time, as it does not allow adequate time for study by the municipality to determine the rightness of some applications. Pressure is put on municipalities to make hasty decisions on their future directions, and worst of all, by doing so, assumes that amendments are almost a matter of course.

Sections 29 and 30: The authority to acquire public meetings is removed for consents to sever land and for plans of subdivision. Again, public input is necessary to retain the checks and balances of the system. This is not democratic. A community has a right to know where development is proposed. Also, the shortening of the time frame for appeals in respect of a proposed plan of subdivision or for a consent is putting undue pressure to make hasty and ill-considered decisions.

Mike Harris wants to "clear away obstacles to economic growth in Ontario." We fail to see what obstacles, particularly as it pertains to planning. The "greened" Planning Act has not had a chance to be tested; the Sewell commission recommended a five-year period for the workings to become smooth. It is likely that some of the guidelines need reworking, but don't throw the baby out with the bathwater. If you want to be a Progressive Conservative government, you will not proceed with these retrogressive steps.

As politicians, you must be constantly aware of the terrible power you hold to regulate other people's lives. But you must realize that your lives and your children's lives depend on healthy water, soil and air, and these depend on proper environmental protection in our planning legislation. I think Robert F. Kennedy said it well:

"My hope is that we'll be able to preserve nature. It's the foundation of our economy. If we destroy those things, we are going to leave our children a world that is impoverished intellectually and spiritually and economically."

Thank you very much for listening.

The Acting Chair: Thank you very much for your presentation. Unfortunately, we've used our entire 20-minute allocation. Thank you for appearing.

Mrs Guselle: Best of luck with your work. You're all very attentive. Thank you.

TOWN OF COBOURG

The Acting Chair: The next delegation is the corporation of the town of Cobourg, if the representatives would like to come forward, please.

Mr Bill MacDonald: My name is Bill MacDonald. I'm the coordinator of planning and development on the council of the town of Cobourg. With me is Mayor Joan Chalovich. I'll be speaking today. The mayor unfortunately has a bit of laryngitis and may restrict her comments to answering any questions afterwards.

Mr Bisson: Surely not because she's short of words.

Mr MacDonald: No, no. Politicians are never that.

Ladies and gentlemen, I'd like to thank you for the opportunity to address the standing committee on resources development on Bill 20. In speaking here today, we are voicing the opinions of the Cobourg council and members of some of the advisory groups that we've had the opportunity to consult with.

We'd like to commence by stating that generally, with some exceptions noted hereafter, the Cobourg council supports the position taken by the Association of Municipalities of Ontario. We feel that authority to plan should be given to municipalities so that they can develop and implement the priorities which, in consultation with local citizenry, they have envisioned. We feel here in Cobourg we have the resources and the expertise to develop well-rounded, comprehensive plans that make sound use of good planning practices.

As I have previously mentioned, there are several areas where the Association of Municipalities of Ontario has either taken a position we disagree with or is silent on the issue. I'd like to take the opportunity to elaborate on these issues.

We wish to specifically comment on the streamlining changes proposed in the bill. We see the need to establish, either by bylaw or official plan policy, the definition of what constitutes a complete application. In this manner, we see that we have an effective tool which will eliminate needless haggling with developers as to what is a complete application. This may avert needless appeals to the Ontario Municipal Board and will provide staff the maximum allowable time to evaluate proposals under the new time frames. This, in our judgement, is a necessary tool for good municipal planning.

The next issue relates to the provision for delegation of plan of subdivision to local municipalities that have permanent planning staff. Cobourg had applied for this right under the previous government, but this application was deferred with the passing of Bill 163. We would like to see this provision reintroduced in the legislation. We feel that we have a strong, effective staff that has the knowledge and the resources to effectively guide this process. This would be of particularly effective use in Cobourg as Northumberland county, the upper-tier level of local government here, does not have an official plan.

Neither is it likely to develop one in the short or medium term, as the county was not one of those listed as a priority in Bill 163.

We have been advised by our environmental advisory committee that it fears that there may be some weakening of the protection of the environment in the official plans. We support their concerns to the extent that the province should continue to have due regard for protection of the environment and not disband the safeguards presently in place. The current Cobourg council is committed to maintaining existing practices and relies upon our environmental advisory committee to provide advice and comments on environmental issues relating to new development plans. We cannot, however, bind future councils to the same commitment. We feel these new policies will only lead to conflict over the environment, attitudes to development and different senses of protection levels. This will have the opposite result to the one you are seeking: Development costs may rise because of the cost of conflict.

The Association of Municipalities of Ontario is suggesting that variances be delegated to staff. Our experience leads us to believe that this delegation may not be appropriate. Cobourg has used our free-standing committee of adjustment, and we prefer this non-biased approach to variance applications. If this bill were to be amended to allow for this, it would be preferable to leave it as an option rather than a requirement.

Representatives of Cobourg council have had several meetings with west and central Northumberland municipal representatives to discuss the formation of a municipal planning authority. It is obvious already from our discussions that the rural municipalities have concern with an urban-rural municipal planning authority mix, particularly the weighting of voting powers to give representation by population count. On the other hand, we're not interested in having our town become part of a planning authority if the voting is to be skewed with respect to overrepresentation of rural interests, as currently exists in the county of Northumberland. County politicians have been aware of this inequity for many years but have made no moves to remedy this, as is evidenced by the county's private member's bill currently filed with the Ministry of Municipal Affairs and Housing, a copy of which is on file with our local member. In this regard, we strongly support the provision which will allow the minister, on request, to establish a committee or commission to examine local boundary situations with regard to providing a solution where all local attempts at compromise have failed.

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It is also our understanding that all of the policies and regulations have not been put in place with regard to Bill 26 relating to amendments to the Development Charges Act and, in addition, that further amendments concerning the act are under consideration for this bill. We suggest that such changes should be clearer, allowing municipalities to develop formats easily, without undue cost and complexity, keeping in mind that the government has already significantly reduced funding for municipal government while at the same time theoretically expanding responsibilities to municipalities. Given the new

situation, lower-level governments need flexibility to meet expanded demands and responsibilities. Complicated formulas and account requirements may require additional accounting time and outlay for accounting expense. In addition, if there are restrictions on what can be used to justify development charges, this further restricts the flexibility of municipalities to meet the legitimate needs of communities as they expand. We would strongly advise that municipalities be allowed as much flexibility in this matter as possible.

In summary, we are generally supportive of the Association of Municipalities of Ontario position regarding Bill 20 and the pertinent policy with the noted exceptions of: (1) the delegation of subdivision approval; (2) defining a complete development application; (3) strengthening environmental protection; (4) minor variances. I've added on my own copy here, and you could in yours, development charges.

I would again like to thank the committee for the opportunity of addressing you on this matter. I will not read from the text, but we also gave copies of our environmental advisory committee's concerns, which I covered to some extent in here as well. That completes my presentation and I'm available for questions if there are any from any members of the committee.

The Acting Chair: Thank you very much for your presentation. We have just over four minutes per caucus for questions, commencing with Mr O'Toole.

Mr O'Toole: Thank you very much for an interesting presentation. I gather you are involved primarily in planning with Cobourg council.

Mr MacDonald: Yes. We work with I guess I could call it a cabinet type of situation, and each member has an area of responsibility.

Mr O'Toole: I will just ask you a very specific question. Do you think that planning is an exact science, whether it's policy-driven or regulation-driven?

Mr MacDonald: I don't think it's an exact science, no.

Mr O'Toole: Do you think that when you go to an OMB case you're going to see two planners, both perhaps with graduate degrees, arguing the opposite sides of the same issue?

Mr MacDonald: I'm not quite sure that I'm following you.

Mr O'Toole: When you're at an OMB hearing and there are an applicant and a person opposing it, you have two planners and theorists arguing on opposite sides of the same issue, how can it be an exact science when it's a matter of perceived outcomes in planning?

Mr MacDonald: To answer your question, I wouldn't say that it is an exact science, that there's going to have to be—

Mr O'Toole: Do you think that Bill 20 and/or Bill 163, for that matter, are centralist views of planning?

Mr MacDonald: Bill 163?

Mr O'Toole: Yes, and some of the parts of—

Mr MacDonald: In my philosophy, I guess I would say it's more centre-driven. It's much more extensive, my understanding is, in terms of the laying out of policies and guidelines, in terms of trying to achieve consistency throughout the province and trying to meet certain

minimum standards. I believe that was the rationale for the bill.

Mr O'Toole: Yes, to have centred policies, provincially-driven. Now who are the primary decision-makers of first choice, local councils or the provincial government, for a community like Cobourg? Perhaps the mayor could respond.

Mr MacDonald: Sure.

Mr O'Toole: Would you like the local community to account to its community or Queen's Park?

Ms Joan Chalovich: I would like the local community to account to its community.

Mr O'Toole: Do you think Bill 20 suggests that the local community has much more of a role in planning in Ontario than Bill 163 did?

Ms Chalovich: This is the reason why we can say that basically we are supportive of what you're endeavouring to do. However, we think that you have some fine-tuning to do because we feel that our town of Cobourg, with our planning department and our staff, can do even more than what we're doing now. We're saying, give us the opportunity, fine-tune it a bit and let us get on and do our job. But we're also acknowledging that we can't hold future elected representatives to the philosophy of our current council. So it's probably not a good thing for the province to feel that all local governments can act with the same level of responsibility. There have to be some safeguards. So don't throw them all out.

Mr O'Toole: I can kind of agree with that. We're always looking for balance, and not always a political balance. There has to be some basis in theory, and the motives for those theories are also subject to change, as the economy is and people's needs to exist change.

I guess the last question I have is, would you believe that development has a rightful place and it shouldn't be termed as a bad thing?

Mr MacDonald: I think development and developers have a place in the community. I would agree with that.

Mr Gerretsen: I would hope that developers and development have a place in our communities or else we'd still be where we were 100 years ago. But that's not the issue. The issue is how many—

Mr O'Toole: Where has it been for seven years?

Mr Gerretsen: The issue is, what role does the general public play in this, what role does the province play in this and what role do municipalities play in this? You're very fortunate here in Cobourg to have a very good planning department, but there are a lot of small communities that don't have. Don't you think it would be helpful for the province to have guidelines, for a provincial policy statement to be as directive and as firm as possible?

Mr MacDonald: Certainly it would reduce ambiguity. I think, especially in the environmental area, we did point out that ambiguity may lengthen the process and increase the costs as you get not only planners but lawyers arguing over the vagueness of certain policies.

Mr Gerretsen: Exactly, and it's the ambiguity of those statements that allow these matters to come before the OMB. The less ambiguity the less money myself as a lawyer and other people around here as lawyers would make in this thing.

Let me ask you this. I've been dying to ask somebody this the whole day. We're sitting here in a beautiful development, but I'm sure that some of the people downtown had some other ideas about this when it was built. Is that correct? Yes or no?

Mr MacDonald: It's a little before my time on council, but I think I can—

Interjection.

Mr MacDonald: I would suspect that at the time of the development—

Mr Bisson: The answer's yes. Say yes.

Ms Chalovich: I'm going to speak up and say yes because we're the test case for the province where there were some councillors who were sued for conflict of interest opposing the mall.

Mr Bisson: That's right.

Mr Gerretsen: I'm not thinking of a conflict of interest so much. What I'm saying is that good planning is like beauty, you know, it's in the eye of the beholder. Some people love this development and some people downtown maybe love something else, so it's not as exact a science as Mr O'Toole would like to suggest.

Mr O'Toole: I didn't suggest that it was.

Mr Gerretsen: I'm curious. How many appeals have you had for minor variances in this community over, let's say, the last five years?

Mr MacDonald: I'd say two or three.

Mr Gerretsen: Two or three. Did the OMB do the right thing in those two or three from a municipal viewpoint?

Mr Baird: They haven't heard back yet.

Mr MacDonald: Quite frankly, given the cost of appearing at OMB hearings, the town has taken a policy position that if an individual appeals a decision of the committee of adjustment to the OMB, we just let it stand and we don't appear.

Mr Gerretsen: Okay. I just want to know where your brief is coming from. You're basically talking about a committee of council in council, but you don't really address the issue. Would you be opposed to having a final appeal from a minor variance go to the OMB?

Mr MacDonald: No, we would not be opposed to having a variance appeal go to the OMB. The town has taken a position, again related to cost, that minor variance decisions made by our free-standing committee are not appealed by the town. The only appeals that have occurred in the last four years that I can speak of have been the two or three people who didn't like the decision of the committee and we just let it go and we sent our research in and let that be.

Mr Gerretsen: Right. So the town doesn't take a position on it. It's basically between the applicant and whoever objects to it.

Mr MacDonald: Yes.

Mr Gerretsen: Or the other way around.

Mr MacDonald: Yes, sort of thing. I guess our thrust, and perhaps I misunderstood what the AMO policy statement was, is that we don't see minor variances as being an administrative thing. It still needs to be a political process. That may be the thrust of—

Mr Gerretsen: It depends how minor it is.

Mr MacDonald: Yes.

Mr Gerretsen: If it's six inches off, couldn't it be an administrative thing?

Mr MacDonald: I suppose so, but when you're dealing with property rights, people tend to like to think that they have an accountable process in place.

1610

Mr Bisson: Maybe you can help me a little bit here because I think there is a bit of confusion that might be set here in regard to this particular presentation. I just want to make sure I'm not misinterpreting what you're saying.

You're saying in the summary of your brief that you believe that there needs to be, in your words, "strengthening environmental protection" in the planning area overall. At the same time, I heard the mayor saying—I don't have the exact quote—that if we don't have clear and consistent policies, you're going to end up with quite different things happening in different municipalities across the province. I don't want to put words in your mouth, but I think that's what you said.

But where I'm a little bit lost, I can understand if you want to support the general direction of where Bill 20 goes, but you were silent on the question of "have regard to" and "be consistent with." You tend to argue for "being consistent with" and talk about "having regard to." I wonder if you can clarify that because you seem to be saying two different things here.

Mr MacDonald: I think our thrust with regard to "being consistent with" is that we're looking at a specialized area here. We feel that the environmental issues should be stronger. In other areas we think that there should be some delegation of authority to allow variation in the local content and input, but the environment is an important area that needs to be a little stronger than the rest of the policy-driven areas.

Mr Bisson: What you're saying then is that the province should work not through policies but through laws?

Mr MacDonald: Either legislation and regulation or policy.

Mr Bisson: But if it's legislation, you have no ability to do anything else but follow it, and if it's policy, you're saying you want to "have regard to" it, you don't want to "be consistent with" it. Do you follow where I'm coming from?

Mr MacDonald: I think so. I'd say that in the area of the environment, we would see the need for stronger—I don't know if we would say it's a legislative thing but at least stronger policy, more specific policy.

Mr Bisson: Should the council follow the policy? That's what I'm asking.

Mr MacDonald: In our regard, yes. In that area, yes.

Mr Bisson: So you'd have to be consistent with the policy?

Mr MacDonald: In that area, yes, I would say okay, but in other areas let the council and the local citizenry develop their plans, keeping in mind the strong regard for the environment.

Mr Bisson: Okay, I've got you. I just want to say—and you might not have been here this morning—but the more and more I listen to this debate, and this is the second time around on this issue, the more and more I'm starting to become convinced that really what you need to have is a clarification of the policies and then give

them to the municipalities and people responsible for local planning so that both developers and the people who are enforcing the Planning Act clearly understand what it is they've got to do and what is the litmus test they've got to meet to get their project through.

The second thing I would ask you, would you favour—and I take it you already spoke to that in your brief—but would we not be better served if we went to a regional or an area or a larger planning body of some type other than just the local municipalities themselves having that responsibility shared over a larger geographic area? Then you'd have regional planning authorities and they would follow the policies through the Planning Act with some sort of an appeal process. Would you favour that?

Mr MacDonald: I think you've touched on a touchy subject in this area.

Mr Bisson: The boss wants to talk.

Mr MacDonald: I'll let the mayor answer.

Mr Bisson: The boss wants to talk.

Mr MacDonald: Yes, I realize that.

Mr Bisson: Let's get her in there.

Ms Chalovich: I'll try my voice on this one. The problem is when you get out through the rural areas, we have situations where you have towns that are part of counties. We have a skewed voting power at the second level and, unless you're able to fix that up, it won't work.

Mr Bisson: That's the challenge.

Ms Chalovich: That's right. You're really into a situation that unless we can deal with the boundaries across this province and get ourselves into working clusters of common interest, we've got a problem. You can't fix the Planning Act up unless you fix up the representation.

Mr Bisson: If you can fix that, you'd support it.

Ms Chalovich: That's right.

The Vice-Chair: Thank you very much for coming forward today. We appreciate your presentation.

TOWNSHIP OF HALDIMAND

The Vice-Chair: Good afternoon and welcome to our hearing process this afternoon. I invite you to introduce yourselves, please.

Mrs Jane Kelly: Jane Kelly, councillor, township of Haldimand.

Mr Bill Finley: My name is Bill Finley, the reeve of Haldimand township. I will go first. I asked Jane if she'd like to go first, and she said no.

My presentation, which I have handed in here today, basically covers seven areas. Before I start that, I want to say that I've been in municipal politics for approximately 17 years. I've gone through where we had more county involvement. Then we went into what we called the central Northumberland planning area, which is something like they're looking at now where it's a municipal planning area. We were part of a five-municipality group. The last X number of years, most of the planning has been done right in our local municipalities. So I've actually been able to wear three hats, and many of the things I say here go back to what I've experienced.

The first area of change is delegation of approval authority for local official plans to the county of Northumberland or a master planning authority.

The confusion surrounding this proposed change has already caused concerns in many rural Ontario municipalities. The reason is that initially we were told that we must have a permanent planning department with estimated costs somewhere in the figures of \$100,000 to \$140,000, and I was very concerned about this.

This approach seems contrary to the current Ontario plan to reduce the costs of government. In order to afford these costs, many of the planning functions currently handled by local governments would be more expensive. We don't need larger cost structures. We need systems which allow us to pay for the services used. Permanent staff is not the way to go. Contract employees, ie, planners, specialists etc, should be used as needed. As we go through these recession-and-boom periods, how are we going to pay a permanent staff if we're not getting money in? I'm very concerned about this. I have been told that possibly we would be able to use contract, and I hope I'm right on that.

An additional concern is the official plan update. The local plan must adhere to the county of Northumberland or the municipal planning authority. Who is going to pay these additional costs to bring our plan in line? We've just gone through many years of totally rebuilding our own plan. We've had people into the ministry and we've just got it so we're within a matter of a few days of being approved. Now we're going to have to go back through and, within a certain amount of time, we're going to have to have that plan come in and conform to this new master plan authority. Where's all this money going to come from?

The township of Haldimand has already operated under a joint planning area, which was scrapped because it was not receptive to local needs. When you move planning away from the local government level, the degree of public input decreases to the stage at which public input is almost non-existent. If you want to streamline planning, reduce the delays at the top layer, because that is where the current problems are. I want to say that in the last six months I have seen a vast improvement in things moving through the system, and I have to give the man we had working with us in the last six weeks a lot of credit, because it was just actually beautiful.

A second area of change, reduction in the time appeal periods, is a step in the right direction. Most people wait until the last possible minute to enter their concerns anyway, so if we cut that back, it means you've got to move quicker.

A third area of change: Our council is already acting as the minor variance committee, and this works very well. We also, as part of our severance approval process, include the conveyance of whatever lot frontage is required in order to correct road deficiencies. We've been doing this for years and it has worked very, very successfully. I can't ever recall a minor variance going to the OMB. I'd have to go back and check.

Next, I do not agree with the proposal to not have a public meeting whenever a plan of subdivision is proposed, and I hope I'm correct on that. A subdivision means a significant change in the normal lifestyle and activities of an area and people must have the opportunity to present their concerns or support.

The next one is section 2 of the bill. Changing the wording "be consistent with" to "have regard to" may make it easier to overcome the issues where specific regulations appear to be cast in stone. I think we're looking for a little bit more flexibility, that hopefully you can work things out.

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The next one is that section 30 of the current bill in our municipality did not appear to be a problem. As long as our current system was followed and an effort made to communicate with property owners adjacent to or near the proposed severance, we found the current system worked very well. We have been handling all our severances within our own municipality, and I can say that our council members go out and actually check, walk through the lands, to make sure these severances are what we are actually being told, and that's why local involvement is very important.

I have grave concerns about the ability of school boards to impose a fair level of development charges. At a time when we should be easing off on the financial pressures that private individuals have imposed on them, the school boards will push for every dollar they can get. There is not enough money in Canada to supply our school boards' needs. This is due to the fragmentation of our school system in areas such as buildings, boards, school buses etc, which require financial levels beyond our abilities to pay. I'm not laying blame here, I'm just saying we've got so much fragmentation, and there's talk of even more. I don't know where it's going to all end.

I want to give you an example. When Haldimand township imposed our current lot levy, approximately \$2,850, our planner recommended a \$7,000 figure, and we fought him. We said: "No way. We're not going to shut this township down." My experience is that they go for the top dollar. This shows that even our experts have very little concern at times about the costs and how it affects our taxpayers.

In summary, many of the changes being proposed are good, but the one that affects our taxpayers the most, ie, the removal of subdivision approvals, official plan amendments and site plan approvals to a permanently staffed, full-time municipal planning authority, can only increase costs which are already too high. The municipal planning authority must not become the new mini-school board or the conservation authority. Those also started small and just kept growing and growing, and that's the whole thing. You've got to be careful. They ended up expanding to the stage where funding became a burden.

We need user-pay systems, and contract employees at municipal planning authority levels who charge known rates so that whenever their expertise is used, the local municipality and the private developer pay only for work needed.

Any attempt to remove severance approvals from the local municipality to an upper-tier government will take us back 20 years to a system which didn't work, didn't investigate, didn't communicate, and was viewed as an obstacle to all who tried to operate under the centralized system.

Thank you for this opportunity to express my views.

Mrs Kelly: My approach is perhaps a little more philosophical. In 1994 I ran for municipal politics, and

I'm presently a councillor at the township of Haldimand. I don't pretend to be a planning expert nor a legal expert. I am, however, dedicated to my job and to my community.

Our council is in touch with people, perhaps more so than in many urban municipalities. Above all, our council listens to local concerns, translates rules and governs local development. In order to function as effectively as we do, we are dependent upon support systems, our official plan, and of course provincial agencies: the Ministry of Natural Resources, the Ministry of Agriculture, the Ministry of Health and the conservation authority. These agencies have in the past given direction as well as support, guiding the municipality through difficult decisions and helping with conflict resolution.

At present, provincial services are being withdrawn, leaving municipal governments without backup. Time and time again we are hearing that these agencies are no longer in the service delivery business. In the past, when a municipality was weak, these agencies could step into the void to ensure that proper planning took place by appealing to the OMB. The best planning decisions are not necessarily the easiest, and many councils need support to make these difficult long-term decisions.

Although here I'm not being critical of professional planning agencies, I don't feel they have a vested interest in the very long-term planning decisions of this province. They're interested in perhaps making their year-end budget and that sort of thing. I question whether they're developing long-range plans for the province.

The provincial government should have planning direction well into the 21st century. Planning for our children should not be left to the municipal planning authorities, which are political and which need only refer to the planning act.

This government is abdicating its planning responsibilities and at the same time withdrawing structures which allow municipal councils to operate within the community. We are on our own.

I'm here today to ask you for leadership. Please provide us with a decisive framework within which to work. As you know from history, strong leadership and trust are essential to the survival of communities. Lest we forget, you and I are sailors on the ship called Community. One would hope that Captain Leach is at the helm with a proper set of charts. With a sturdy ship and a united crew, we will then reach the port and enjoy prosperity. Please do not impose planning reform so vaguely as to jeopardize the relationship enjoyed between lower-tier municipalities and their constituents.

I stressed at the beginning of this presentation that I was not a planning authority. I do, however, take my job as councillor seriously, reading and studying documentation as it comes to my desk. What I read is an eloquently worded planning act, written in isolation, without the commitment to future generations of Ontario. At the very time when Canadians need stability and trust in their systems, you seem to be intent upon undermining the one level of government that is efficient and cost-effective.

Thank you for your time.

Mr Gerretsen: I don't know about Captain Leach, whether he's at the helm. Certainly we've had our

concerns about that. Maybe somebody else should take over the ship of Municipal Affairs, maybe Captain Ernie or somebody. I'm not sure.

Anyway, your presentation is right on. The document deals with process, but you also need policy guidelines with it.

Mrs Kelly: When I came here, I didn't wish to be political at all. I would hope this would be a consensus-making board.

Mr Gerretsen: Well, we've been hoping that, but there's something wrong with our system, I'm afraid.

I agree that if the policy statements were clear and concise, there would be much less argument about it, both at the planning development level and perhaps later on at the OMB level. I totally agree with that thinking.

Mrs Kelly: I was at ROMA a few weeks ago. The Honourable Mr Leach spoke and said that if we wished to go off to the PEI Room and discuss planning with one of the consultants there, they would be more than willing. I came out with the feeling that I probably knew more when I went in to talk to the consultants than when I left. There was so much confusion about whether as a rural municipality we should be joining an MPA, and why were we considering joining an MPA when we hadn't annexed with anybody, and hadn't we considered annexation? We've had no policy statement on annexation or, for that matter, municipal planning authorities.

Mr Gerretsen: With regard to this notion of having a public meeting when a subdivision comes for approval to a municipality, let me ask you or the reeve this: How precise do the plans have to be before you allow a rezoning to take place? I'm not talking about a subdivision plan now, because that comes after the rezoning—or do you deal with both at the same time? How do you deal with that in your municipality?

Mr Finley: What we look at first of all is the scale of the change. If I see something that I feel is going to have quite an effect or a change in that given area, I actually try to go further than I really have to. I want to make sure that right from the lowest level, day one, we get that initial input.

In fact, we tell people who come in to us and want to do something: "First of all, we want you to go out and talk to the people in the area. We want you to cross those roads beforehand and get the people on your side and overcome those issues." Then it makes it a lot easier. It saves times and I believe it saves money.

I guess that's why we've stressed here today that if you work with the public, a lot of the time it's amazing how things will move ahead, but right off the bat. The last thing people want is to have something sprung on them and they don't get the chance to be part of it.

Mr Gerretsen: I totally agree. The general public's input in a subdivision is extremely important. Would you agree with that?

Mr Finley: Very much so, because it changes everything in that area.

1630

Mr Bisson: Thank you very much for your presentation. I just want to clarify so I don't misinterpret what you've said here, Reeve Finley. You say in your summary that you want to move to a user-pay system. You say on the one hand that you would like to get to a fixed-

cost system when it comes to moving through the planning process, but when you talk about a user-pay system, are you also talking about the costs to the developer as well, or just to the municipality?

Mr Finley: I have to look at it from both sides, because any development, once it gets to the stage that it's not feasible because of the cost factors, is going to go down anyway. It's got to be a win-win situation. What I'm basically saying here is that I understand they want to cut back in some of the ministries and I understand that a lot of these responsibilities, especially the initial work, would be transferred either to a county or a municipal planning authority, but whoever is doing it should pay the cost, and I want it to be that cost, not large, full-time costs.

Mr Bisson: There are supposed to be changes in the spring to the Development Charges Act to move the soft services off development charges and put it through the tax base if the municipality wants to do that. Do you support that general direction or do you think developers should pay for the development charges, hard and soft services?

Mr Finley: I have to be very careful. I think they have to pay all the way through, as far as what it costs to go through the system. But I'm very concerned in terms of this Development Charges Act; I've seen some of the figures. At the same time we're talking about putting this against a lot or a plan of subdivision or whatever it is, do you know property values have dropped down to half in this area? If you take a lot that's, say, worth \$20,000 and you slap a \$5,000, \$6,000, \$7,000 development charge against it and we've already got a municipal—as far as roads and recreation—

Mr Bisson: But the specific question I'm interested in is that if you as a council decide you're going to build a library or a playground or whatever it might be to provide services to your community, there are only two ways of paying for it: either through development charges or you put it into the municipal tax base. I'm just wondering which one you would support of those two.

Mr Finley: Up till now I haven't been faced with that, but certainly from a road standpoint, we go out of our way to make sure that developer pays his full share towards any improvement on the roads and water services—

Mr Bisson: We know they have to be there. I'm talking about soft services.

Mr Finley: Soft services. I would have to look at, first of all, do we need it? If I already have those facilities and that new development means that we're still serviced enough, even with that additional number of people, I think we've got to be very careful. I can't give you a full answer at this time, because I'm from a small municipality and I have not had this issue in terms of large-scale libraries, things like that. I can strictly look at the area I've been exposed to.

Mr Bisson: I've only got a couple minutes, and I just want to ask—

The Vice-Chair: Excuse me, Mr Bisson. We're past that couple of minutes. I'm very sorry.

Mr Bisson: I would have loved to ask you a question.

Mr E.J. Douglas Rollins (Quinte): Thanks, reeve and councillor, for coming today. It's enlightening to hear

somebody use some words—I know the opposition doesn't want to hear the common sense of the thing, but it appears that you people are dealing with these planning matters as they come before you and do not waste a whole lot of extra dollars on having things done that aren't always required.

One of the things I would like to ask you is in regard to the environment, and regardless of how it's written in the bill, we're always conscious of that. Do you have a problem with some environment issues that have come up before you, or how have you dealt with those?

Mrs Kelly: I prefer the "consistent with" approach. I liked the land trust system that the previous government was considering. I thought it would end up protecting some of our significant environmental features and I thought that was an idea that could have been more developed and could have been associated more with the Planning Act. In other words, I can understand people's concerns if environmental controls are too strong, but on the other hand, I don't like a bill that is so weak that if you back off, the whole system falls apart.

Mr Rollins: Another thing I would like to think too is that you people feel that it will be workable between you and the upper-level government to be able to make those decisions so that you have most of those decisions left in your own municipality to make that decision to say, "Yes, go ahead," "No, don't."

Mrs Kelly: No, I don't agree, actually. I think that we need support, and you are in fact taking away—I don't mind user-pay, that sort of thing, but I'm concerned that we have a regulatory agency to support us in our decisions, and we don't have regulatory agencies. I agree that the conservation authorities have been fat cats for a long time and they've had to trim their budgets, but sometimes you need a regulatory agency to support council and say, "If you're going to push this and virtually go against what we say, we only have a bylaw enforcement officer to enforce our—" We need somebody who'll say, "We're going to take you to the OMB," because in many cases, we don't have the funds to take people to the OMB. If we had the conservation authority or the Ministry of Natural Resources, they acted as a regulatory arm of government and helped us with difficult decisions. You're not offering us that now.

Mr Rollins: You want us to show you some guidelines too.

The Vice-Chair: Mr Rollins, I'm sorry. Thank you very much for your presentation this afternoon. We've enjoyed it.

Mr Bisson: Madam Chair, just with the committee's indulgence, both my colleague and I have to drive back into Toronto for another engagement that we're both attending. So I would ask that the other presenters, we get their brief passed on to us, and extend our apologies.

Mr Gerretsen: Are you yielding your time to us?

Mr Bisson: And I yield all my time to the Liberal caucus.

Interjections.

The Vice-Chair: Nice try.

Mr Carr: Some friend you are.

Mr Hardeman: In all fairness, I don't think we can stand a double dose of that.

Interjection: Please, have some regard to our health and safety.

Mr Bisson: Be consistent with that, not in regard to *Interjections*.

Mr Gerretsen: We're staying till the end. We want to make sure you don't pass anything while we're gone.

The Vice-Chair: I just want a point of clarification. Is Mr Bisson saying both himself and Mr Wood had to leave?

Interjection: Yes.

The Vice-Chair: Thank you. I didn't realize who he was talking about there.

JOHN WOOD

The Vice-Chair: I would ask that our next presenter, Mr Wood, come forward, please. Good afternoon, sir.

Mr John Wood: I'm familiar with the structure and quite prepared and organized, hopefully, to adhere to that. I've given you the written brief. You can all read; I have no question about that. All I'm going to do is to—I'm making an assumption—go through some highlights but to also accentuate a few things as we proceed.

Also, of course, to start, I assumed that the seating around the table was alphabetical, and I realize that someone has stolen my theme for years, which has always been one of common sense.

Mr Gerretsen: So was mine.

Mr John Wood: It's like there have been many interpretations. Anyway, thank you, Madam Chair, if I may proceed at this point?

The Vice-Chair: Yes, please do so. But it is not seating alphabetically, as you might notice, by the name tags.

Mr Gerretsen: Those are the bad guys; here are the good guys.

1640

Mr John Wood: I'll rearrange it mentally, yes.

Mr Carr: How come there's more of us, then?

Mr John Wood: I thank you for the opportunity to be here, because I've been through a lot of this process myself in a very direct way with the Association of Municipalities of Ontario back in about 1980, 1983. This last planning review, I had a lot of other things on my mind and I didn't address too much attention to it, although I did attend one of the earlier meetings. From that meeting, myself and others felt that somehow they really weren't listening or prepared to listen to the local citizens and people, that there were philosophies that they were trying to present. When Bill 163 finally came down, to me, there were a lot of very unmanageable things. A simple one that I've highlighted in here is that there's no provision, once a bylaw is passed, that the clerk ever give notice. I mean, it's just simple things, and I see that this is being corrected in the new legislation.

Anyway, I'll go through this. As my background, I was a planning director for 16 years, also in the private sector—and I don't wish to be labelled as a consultant or a real estate etc. I just find myself involved in the process all the way from the private sector to social involvement.

But I do like to keep things simple, and I've used that word and I'd like you to keep that in front of you. On page 2, the heading is "Simplicity." And you can't

legislate simplicity, but there are little things that can be interjected to address that.

In the first paragraph there, for example, I'm really concerned now with—and this is not just this Planning Act but the previous one—the number of things that are about to be prescribed, the regulations that are going to be issued and the Lieutenant Governor in Council may make regulation etc. on and on and on. In fact, I think it was estimated that there were going to be 600 pages of forms alone, and that's a long way from my initial introduction to the Planning Act of having one or two pieces of paper and getting on with the applications. In fact, in simplicity, in terms of an official plan, I've always maintained that you could probably get away with a map and two or three pages of text. I really have no quarrel whatsoever with that, keeping it to the very basic document, and I'll come back to this several times throughout this presentation.

Then at page 3 is attitude. Again, you can't legislate it, but I had an example of attitude in the last couple of days. I'm on the political affairs committee of the real estate board, and we finally got the health unit to agree to some clauses that we could put into an agreement of purchase and sale so they could release information. It's great. Unfortunately, in terms of the vendor, in this particular case, and the purchaser, we had to rewrite something a little different. I took it to the health unit yesterday for release and one person said, "Yes, that's great, that's the authority we need," and today the first page I got was, "That's not good enough."

Now, we've got a language problem, and the person living in Trenton, Korean background—trying to wave more things like that in front of him is ridiculous. I said, "Well, what are the other procedures?" "Well, get their lawyer to write a letter," or "You can take the standard process through the release of information."

I mean, it's ridiculous. That is the most public information you can probably have, because I, as an adjacent property owner, should be able to examine the certificate of approval for an adjacent property, because I would be concerned whether or not there's been approval given and whether or not the septic system is going to leak into my property. That has got to be basic open information.

I've quoted things there, and those are actual quotes of attitudes that I've had thrown at me now, I suppose, in the private sector.

But onwards to provincial role and policy statements, and these are essential. In fact, I was with AMO when I suppose we drew up the province to say, "If you're going to issue a policy statement, then let us know that it really is a policy statement and that you're behind it and you think this is good and you're prepared to defend it." So we had them put it into Bill 159, the Planning Act of 1983. However, it's like anything else that can be abused, and the policy statements become too elaborate and too disjointed etc.

But, as I say in the second paragraph there, in this debate over whether it's "consistent with" or etc etc etc, the intent is there. Lawyers will argue forever and a day, but let's get on with it and let's not worry about some of the language. My only problem over the years has been

that whenever someone has been challenged and an adverse decision, someone runs around to plug the loophole and creates two or three more.

Page 5 is a critical thing, in my mind, and I believe everybody else's: Who's in charge at the province in terms of the planning administration? We believe it should be right in the act that the Minister of Municipal Affairs and Housing is the lead person. As you'll note below there—and that's why I gave up under the preceding one—they thought it would be a consensual and consultative process, but that doesn't work. Someone has to make a decision.

Below that I say, and you can mark about the fourth line up, that I think decisions can be made within seven days. That's not being unreal, because people have been working on things before they get there for a while and the staff should be alerted to the issue arising and, simply, if someone writes to the minister, the minister will give an answer in seven days.

I've got some other timings in here too that might appear to be tight, but I think they're very realistic from my personal experience, because we've tested a lot of these things in the city of Peterborough back in the early 1970s before they were legislation. We introduced most of these items and accepted them and worked with them.

Page 6, the municipal role—and I've heard the preceding speakers—planning is essentially a municipal role. That's where the action is. That's where the attention is given. That's where people feel the effects of planning.

If you look at how the Planning Act evolved, you'll realize the province was always in a reactive position. They usually created legislation based upon demands coming up from the local municipality. When I arrived on the planning scene in 1969, 1970, municipalities had put forward about 10 or 12 private members' bills on municipal property standards. Enough of those came forward to convince the province to put a section into the Planning Act. In the mid-1970s, there were enough private members' bills coming forward under site plan control that site plan control was put in the Planning Act, and on and on it goes. So really the province has been johnny-come-lately to a lot of this planning, and perhaps a more responsible role of policy statements was identified in Bill 159.

At the bottom of page 6 I've thrown in something which I'd ask you to consider: Delete section 28, which is community improvement. A lot of the legislation is really wasted paper and the reason for it being there has been forgotten. For example, community improvement was in the days of neighbourhood improvement and redevelopment plans etc, and the province wanted these plans when they were in cost-sharing agreements with the federal and provincial and municipal governments and perhaps the private sector.

After the heat was off on redevelopment, we were doing a marina improvement. We had some federal money involved, and there was even some provincial, but we wanted to do a redevelopment designation and a redevelopment plan because we thought it was good, common public sense. The minister was reluctant to approve it, because he said, "We're not a party to this, and we're worried that if we approve it, you'll force us to be a party to it" etc.

We've got a few lying around, and the province put us through a lot of hoops to be able to do neighbourhood improvement. But why? As I said, it could be very simple under the Municipal Act: Let the municipality get on with making agreements and doing what has to be done. Keep that in mind in terms of the contents of the Planning Act.

Page 7, Bill 120: Well, that was a rather pathetic injection in terms of the second residential unit. I know I personally and many other people pleaded that it was incredible. I commend you for certainly stopping that. There's some confusion—I know municipalities will address it to you—on when the situation should be grandfathered because there was some delay of getting information out and some people received advice etc.

However, I'm concerned with the legislation you put forward trying to remedy the situation, because there are fairly simple legal remedies available in the private sector and I'm always worried when government tries to remedy a situation through legislation when it can be done municipally. It's a fascinating area. I just wouldn't want to see you protract it, especially when someone says about restraint and you're asking for a registry system and a registrar; that's a little much.

1650

Is this really a Planning Act or what is it? We've lost the essence of a Planning Act or we've interjected a lot of things into it. Perhaps let's get back to it being planning, official plan zoning and subdivision.

The Planning Act has continued to expand, and to me, it hasn't provided opportunity; it has simply provided more and more constraint and confusion. I am one who has to work with it and I have great difficulty even being able to read it any more or to know what we have in front of us.

By the way, I commend the deletion of the request for prescribing the contents of an official plan. That's got to be a variable document and a fundamental document that is to be prescribed by the municipal council. Once that's in place, then let's get on with it.

The bottom of page 9 is perhaps an example of the situation that has evolved. I call it the clutter or intertwining of legislation, which mean that the Planning Act is far from being able to stand alone, and perhaps let's get some of those pieces out of it so that the Planning Act can stand alone. For example, why not move the minimum property standards into the building code? Retrofit legislation and regulations etc for fire code and building code have all been brought forward. There are minimum property standards under rent review etc.

It's coming at us from all directions and let's simplify the administration under the building code. Signs, for example, moved from being under the Planning Act into the Municipal Act. Let's keep that in mind to review just what legislation you want in the Planning Act.

Incentive for administrative action: I commend you for correcting that oversight in Bill 163 of introducing the 15-day requirement after passage. But below that I say, "Why not five working days?" Let's get some up-to-date terminology that means something, because you can't say 15 days if we're over the Christmas season and everybody's closed down for about two weeks in municipal administration. What's wrong with five working days? I

know that from personal experience. No problem whatsoever: 48 hours maximum for turnaround of labels and you should have the notice in the mail within three days, so five days is giving an extra two days. Let's get on with it.

On the next one, I'll give you a formula from my experience. It's called the two-weekend formula in giving notice. Citizens demand two weekends. The first week, get the notice out before it goes before the council so they can talk to their neighbours and express their concerns to each other. The following week, they contact the municipal office for information, and the final weekend they get organized for the council meeting and to review the information that's been brought forward.

With the formula of adequate notice of the two weekends, why not a minimum of 10 working days prior to the public meeting for the passage of a bylaw or giving notice of any planning matter?

That's really the main part of my presentation. On page 11, I give you a section which asks, are we ready for a provincial zoning code? This might sound contrary to some of the things of saying it's a municipal responsibility, but I'm not talking planning here; I'm talking the zoning code, and I use the parallel to the development of a building code. Certainly when I joined the city, the city had its own building code and we quickly realized why there should be different structural details in the city of Peterborough to building in the township of North Monaghan. That went to adopting the national building code and eventually now a provincial building code which is really just a similar national building code.

For example, I experience it now, and I didn't bring my own bylaw that I helped write in the city, but if there are 800 municipalities, I'll wager there are 347 different definitions for building, building area height and anything else you can imagine, and there is absolute chaos and confusion in crossing that boundary. I have to deal with several municipalities myself with properties I deal with.

There's a summary to that which you can all read through, but basically keep it simple. Planning is a long way beyond legislation because it has to be an attitude situation. It has to be proactive, positive, and as I say from my experience, that message has to get down very quickly, that people have to be able to respond. The ability to make a decision, whether it's an administrative decision or a legislative decision, is there. Make a decision. Don't procrastinate. Let's get on with it and let's build healthy—I think we can build healthy communities because, as I've stressed, it's at the local level and that's where the people are more accountable, the elected representatives at the municipal council.

Mr Galt: Thank you for the very interesting presentation, quite different than some of the others we've heard. I applaud you in your recognition that planning should really be a municipal activity, not central. It's certainly something we're looking at. Playing around with words, whether it's "regard for" or "be consistent with," certainly if the attitude is not right, it's not going to happen. From what I'm seeing in environment, there's a tremendous amount of peer pressure coming particularly from our children coming home from school with real environmental ideas, and they're not going to allow a lot of environmental degradation that has occurred in the past.

Mr John Wood: That's right.

Mr Galt: But my question to you relates to when the legal beagles get hold of it and is the "i" dotted or the "y" crossed, how do you go about maintaining the attitude that's right? They play with all kinds of games and it really makes a mess of the legislation we've been struggling with.

Mr John Wood: I made one reference to lawyers in there and I was about to write another one saying keep the lawyers away from writing the Planning Act, but I decided to back away from that a bit, although I'd be quite serious in that regard because if you think of the parallels in the insurance industry, they got rid of the back side and rewrote the policy so people could read it. Let's write it in very simple terms. That's why get rid of a lot of that stuff.

In terms of Bill 159, I could identify which civil servant wrote a particular paragraph and just where certain things came from. That's how familiar I am with why those are in there, and there's really no need for a lot of that stuff. It's redundant. A lot of the paragraphs are extremely redundant. The more paragraphs you create, the more opportunity there is for the legal people to get hold of it or someone to wave it, that this doesn't comply with that. So get it simple, get it back so it is simple. What's wrong with a little interpretation when you've got the local municipality dealing with it?

Mr Gerretsen: Well, of course, "What's wrong with a little interpretation?" that's why cases end up in court and before the OMB. I don't think you should slough it off that quickly. Planners write just as nebulous a document as many lawyers probably write too precise or too articulate a document.

From your own personal experience in the sense that you've seen it from the municipal side and from the development side, would you not agree that most of the delays in the planning process or getting an application through are with the administrative delays that happen at both the planning staff level, the council level and the various ministry levels? If you followed all the sequences in the acts, then presumably within nine months you should have a development through. In most cases, we're talking about five years, as we've heard about today etc. Isn't that where the real problems are? This is only a little piece of the puzzle, the act.

Mr John Wood: The first thing you did was to label me as a planner. I tried to avoid that but it's nice to—

Mr Gerretsen: I didn't label anybody as a planner.

Mr John Wood: You did because you said planners can write just as obtuse a document, and I would agree with that because my fellow—

Mr Gerretsen: I wasn't talking about you.

Mr John Wood: No, I'm not; I'm labelling planning. I've never taken anything personal. I've been through the public sector for too long. Now in the private sector, it's the same thing. There's really no difference.

For example, the municipality of Scarborough was chastised by the Ontario Municipal Board for writing official plans that looked like zoning bylaws. Now they have density provisions that are 24,256 units per acre, which is ridiculous. What you're trying to talk about is you want to put high-rise apartments there. So there you go, that's simple. You don't need to get into much more

beyond that. Yes, you can put some density, up to a maximum of 100 units and play with some of those, but that's where planners really missed the boat in terms of going from planning to perhaps some type of very technical planning which is what you're alluding to.

1700

What I was getting at in terms of timing is the lack of response, if you could label it that. I've encountered it from many areas of government, not just in planning but in terms of, "No, we can't give advice." I sit as a chair of a board that referees the Unemployment Insurance Commission, and we're so frustrated at times because if they just talked, the information was there, no secrets, put it on the table.

I had a personal experience in that area, going to another field, of saying, "I know there's a program out there." I went and asked for it and I got a letter back trying to explain what it was and how I wasn't eligible. I didn't ask for that. I asked for the information. We're all capable people, and as you say, your children are educated and aware of what's going on. As you said, nine months for a development. Why? It's like the clerk saying one day to me about, "This is pretty obvious and straightforward." Then he suddenly realized what he had said because he was saying, "Why do we have to go through it?" Don't question it, just do it, put it through, let's get on with it. So it's not nine months; you should be talking, as I say in here, about 33 days.

The Vice-Chair: Thank you very much, Mr Wood. We've enjoyed your presentation this afternoon and I'm glad you've taken the time to come here.

Mr John Wood: I appreciate the opportunity, and by all means, if there are any questions or follow-up or an opportunity, I'll be watching, so thank you.

NORTHUMBERLAND COMMUNITY LEGAL CENTRE

The Vice-Chair: I ask the Northumberland Community Legal Centre representatives to come forward, please. Good afternoon and welcome to our hearing process.

Mr Garth Dee: My name is Garth Dee. I'm a lawyer. I'm almost afraid to admit that after the last discussion, but I'm with the Northumberland Community Legal Centre. Our clinic provides representation to low-income clients, primarily in the area of social assistance, landlord and tenant matters and workers' compensation.

I'd like to speak to you today primarily about the provisions of this bill that would allow the inclusion of official plan prohibitions on two-unit residential houses. The clinic has some very real concerns with this provision of the bill and is asking you to reconsider whether this is an appropriate thing to include in this bill.

In our view, the inclusion of this provision in the bill will lead to a number of negative consequences. It will certainly affect the availability of low-cost housing. The prohibition of apartment units probably, if they're second units within houses, in all likelihood will not lead to their elimination. We know they proliferated even when they were illegal before, but it will certainly lead to a reduction in the number of apartment units. Some of these units are low cost, and particularly for the type of clients we deal with, they are the type of accommodation that

they can afford on their limited resources. This provision will limit the availability.

It will also limit and negatively affect the quality of these housing units where they do exist. If they are illegal, they will not be subject to minimum criteria and minimum standards. Under the former legislation—I'm talking here the previous version where the basement apartments or second apartments were illegal—no standards applied but they still existed in great numbers. There was nothing you could do about the poor quality of the housing where that housing was of poor quality.

The people who live in those illegal units will have no access to the law to be able to enforce any legitimate standard. Any complaint by a tenant of an illegal unit could lead to the shutting down of that unit and being put out on the street. There is no ability for the people living there to expect any type of assistance in enforcing a reasonable standard of accommodation.

This revision will also affect the ability of seniors and the disabled to live in their homes. Many people who are older, who are disabled, wish to live in the house, perhaps the house they've lived in all of their lives, but with somebody else there to assist them, perhaps somebody to keep them company, perhaps somebody to help them bear the expense of maintaining a house. These people have no desire to move out of the house they've lived in for many, many years, yet if they can't set up a second unit in that house for someone to live in with them, they have no other option but to move out.

It will also affect the ability of first-time home buyers to buy houses; many first-time home buyers rely on this type of income in order to allow them to purchase a house. Particularly of importance to the people our clinic serves, when you combine this restriction on low-cost housing with the cuts that have been brought into social assistance, what we are seeing to some extent in our clinic is that people are moving out of the more urban areas into rural areas; they are moving into non-winterized cottages, they are moving into trailers, on to farms. This is a real problem with some of these people because they are employable, they would like to work, but once they're out of town with no immediate access to jobs and no transportation because they can't afford the vehicles to get them to the areas where there are jobs, all of a sudden you've got an increased problem with the employability of someone who should be employable. It is a move that takes place out of economic necessity to find a place to live but in the long run is destructive to the long-term interests of anyone, which are to return that person to work.

If you look at all those negative consequences and look at why this legislation is brought in in the first place, why this proposal is being made, the only rationale I can come up with is, to assist in maintaining the homogeneity of single residential use. The clinic believes that's not a good tradeoff when you look at the tremendous negative effect that will come from the changes proposed.

I'd like to point out what I see as two inconsistencies with this provision. The first inconsistency is, I'd like to compare the manner in which cuts to social assistance have taken place with the manner in which cuts to municipalities have taken place. Everyone recognizes the priority this government has set on improving the finan-

cial situation of the province and the cuts that have taken place with the desire to do that. Where the cuts took place in the municipalities, there has been a lot made of providing municipalities with the tools to handle that reduced level of funding. You free up the municipality, you give it additional powers, you give it additional flexibility in order to be able to handle that limited budget. But where the cuts have come into social assistance, we haven't seen a similar expanding on the flexibility of those people to be able to deal with the problems put on them by the reduced level of funding. There has been some increase in the ability to keep employment income, which does assist somewhat in trying to make up for the cuts. It doesn't allow you entirely to make up the difference, but it does assist somewhat.

But what is more relevant to what we are talking about here is that this change, which has the impact of reducing low-cost available housing to welfare recipients, acts against and further compounds the cuts to welfare when you combine this change with other changes to the welfare legislation that pretty much prohibit some living arrangements as a result of the change to the spouse-in-the-house rule. The spouse-in-the-house rule has been changed to prohibit living arrangements that go far beyond what any reasonable person would consider a spousal relationship. But in order to get at the perceived problem of people living as spouses and not claiming that status, the definition of spouses has been cast so wide as to prohibit all sorts of alternative living accommodations that assist people in getting by on lower levels of income.

So what I'd point out to you is, where this government has seen the need to cut back on funding for the municipalities, it has at least taken the steps that allow those municipalities to try and adapt to those changes. Where this government has seen the need to reduce funding to social assistance recipients, instead of seeing a similar expansion of the ability to be flexible in order to handle those cuts, we've seen us going the other way, restricting the ability for alternative living arrangements, perhaps with a person of the other sex or perhaps in a second unit within a residential area.

1710

The second inconsistency I'd like to point out is within the legislation itself. I'm not an expert on the Planning Act, and many of the changes in here are beyond my expertise—and I readily admit that—but if I understand the gist of this bill, it is to stop government from interfering, or at least to reduce the level of government interference and red tape that developers and others face when they try and use property in a way that they think makes good economic sense and they bring forward a proposal to do that. The one provision of this bill that goes the opposite way and says, "We're going to allow more barriers to your doing what you want to do with your property and doing what makes economic sense to you", is this one provision on residential premises.

So within this bill that's intended to get government off people's backs, or at least reduce the level of government on people's backs, you have one provision that stands in stark contrast. In this provision dealing with second-unit residential accommodation that's primarily of benefit to low-income people, you say, "In this case, more government intervention, allowing government to

stand in and say this is prohibited, somehow becomes worth while." Now that's an inconsistency. I'd ask you to take a look at your philosophy; I mean, the philosophy that you brought to government, that less government is better government. If it applies in the case of developers, and if it applies in the case of wealthy people who can go out and bring forward plans for development with all the positive spinoffs, why doesn't it apply for other people on the lower end of the spectrum who need this type of accommodation, who benefit very much from these provisions and don't want to see them taken away? So I urge you to take a look into your own philosophy that you bring to government, and see whether or not this provision prohibiting people's use of property in this manner is consistent with that philosophy that you do bring to government.

My final comments here are about process. In my past, I have had a close familiarity with this process and with legislative committees. I understand that sometimes these committees are very worthwhile and I understand that almost always the MPPs who sit on them are desirous of listening to the presentations and take their jobs seriously. But I also know that depending on the manner in which the committee has been set up, sometimes they're not terribly useful. It's my belief that it's up to the committee members themselves to decide whether or not this process will be a useful one or whether it's just an exercise in public relations.

I urge you to do a number of things. First, and I'm speaking particularly to the government members here, I urge you, following the completion of public hearings, to caucus among yourselves and decide among yourselves, without the assistance of others who have an interest in this legislation, what are the concerns that you've seen in this bill, what are the things that you would like to see done with this bill.

Second, I urge you to meet directly with the minister—not through an intermediary, not through anyone else—and meet with the minister in time to allow for the drafting of amendments prior to clause-by-clause consideration in this committee, or prior to clause-by-clause consideration in the House. If you don't act as a group, if you don't meet directly with the minister, if you don't do it in enough time to draft the amendments, you have no authority over this legislation, you have no power over this legislation. I'd ask you very much to make this a real hearing, to take those actions in order that your concerns can be addressed.

Finally, I think the real test of whether you have any influence is, if you want to see changes made to this legislation, particularly significant changes to the legislation, can you get them done or not, and what happens if your views of this legislation are different to the minister's? I mean, the differences do occur. Do you have the right to take those to caucus? Will you be allowed to take them to caucus and have those differences aired.

I ask the members here to pay close attention to the provisions of this bill which would allow the inclusion in official plans of prohibitions on a second unit in a residential house. I would ask you to recommend to your government that they delete this provision from the bill in order that the benefits, particularly to low-income

people but also to others, of second units in houses are allowed to continue.

Thank you for the time you've allowed me here today.

Mr Gerretsen: I think your last point is very well made, Mr Dee, as is your entire presentation, because as a new member here, let me tell you, this is a very frustrating process. If the government had set up a committee that basically said, "Go out and find out how people feel about second-unit apartments," that would be one thing. But I can tell you this is a fait accompli. To that extent, I don't know how much can be done—and I hope the government members will prove me wrong—with respect to the specific wording as it relates to the Planning Act. But as far as second units are concerned, that's gone, that's history.

We've had many presentations, and it's a very frustrating process for me and undoubtedly for some of the other people as well, irrespective of party, because the kind of process that we're involved in, which is so-called public consultation, I can tell you from just one member's viewpoint, is not the kind of consultation that I'm used to. Then there would be a lot more give and take on various things. I've only sat on one other committee and I know how much give and take there was there when it came right down to it, and there was none. I wouldn't expect there to be any more here, other than those amendments that the government somewhere along the line feels are appropriate. That's all that's going to get passed.

It's a very sad commentary on our system of government, to come to that conclusion within eight months of being here. We live in a democratic dictatorship where every four years we go to the polls and whichever party gets elected with a minority vote across the province, if it just happens to get lucky and all the votes are split across the right way, it gets a huge majority and every party—my party had that happen in 1987, the NDP had it happen in 1990 and they've got it this time around. That's why you get these wild swings from one to the other, and I'll tell you, in the long run and no matter which side of the fence you're sitting on, it does not lead to good overall public policy.

You've made a very eloquent presentation, but I'm afraid that issue is gone. If I'm wrong, I'll be the first to admit it openly and publicly in the House. I can tell you, I'm not.

Mr Dee: If I could perhaps hold out some hope, I am familiar with this process and I've seen government members act on committees to quite an extent. The legitimacy of this process really does sit with the people here. If they demand to be heard, if they demand to be heard in time that changes can be achieved, if they demand the audience with the people who can make those changes happen, the process can work. I've seen it work. I've also seen it go the other way, where you go through the motions.

What I was trying to say here today is, make an argument about why the second units are important to a large segment of the society and how this provision is inconsistent with a lot of the other things that this government is claiming to do. I really think it's up to the members here today to decide whether or not this is a legitimate process or a public relations exercise.

The other thing I wanted to say is, as members become more experienced, I've found they're much more willing to exercise that authority they do have.

Mr Gerretsen: I hope you're right.

Mr Lalonde: I have a question. I understand the reason behind why we have to register the second apartment in the basement security-wise, because I know what your duties are whenever the people are not satisfied with the quality of the apartment they have. But would you be happy or satisfied if the last sentence of the paragraph here, which reads, "and can fix fees which may be charged for registration and inspection"—because I do believe that the inspection has to be done for the security of the people.

Mr Dee: There's a concern that provisions that are intended to be there to protect the tenants and to ensure quality could be used as a barrier to the creation of second units. But I think far more important is the ability to prohibit the second unit altogether. If the second unit is prohibited altogether, you don't even get to that registration phase. Perhaps something can be done to ensure, let's say, that municipalities are not allowed to prohibit second units but are allowed to license and require inspections; I'm not sure how necessary it is. But I would support wording that would prevent the use of rules to protect tenants and others from being used to stop the process.

Mr Lalonde: I believe with the official plan right now, any municipality could have that in there. It doesn't require the zoning change as long as it is in the official plan. But just the fact that in the previous bill it was accepted to have the basement apartments, the fact that there will be a fixed fee after, that could be exaggerated by the municipality.

1720

Mr Baird: With respect to some of your thoughts, I can tell you—I assume I can't speak for all members of the committee—I know I've met with Mr Leach on this issue more than once. I've talked regularly with his parliamentary assistant Ernie Hardeman, who has been travelling around the province with us, and I'd just like to put forward the view that we're not all a bunch of trained seals, that there might be some support in our caucus for the elements in this bill that you spoke to; that this should warrant some thought, that our views could be in concert with this bill and that might be one of the reasons why it's being brought forward, with great respect. We are here listening, though, and we're certainly, I think, open to not only just listening but hearing what people say.

With respect to the comments from my colleague John Gerretsen—I have great respect for him and for Jean-Marc Lalonde; they're both good, hardworking members of the Liberal caucus—he used the phrase "sad commentary." I think the sad commentary is that the Liberal Party was against Bill 120; they were against basement apartments; they were against accessory apartments in the legislation Bill 120. Then they changed their mind after the election campaign.

Mr Lalonde: I never said that.

Mr Baird: Not you; their party in the last Parliament.

Mr Gerretsen: It's a right now. It's a right that people have. It was different before.

Mr Baird: Having said that, there has been that change, and that's important to note. I would also clarify that this doesn't ban basement apartments or accessory apartments; rather, it returns that zoning right, that authority, to the local municipality.

I was very struck by what one of the previous presenters had said. I'll quote her from her brief: "Our council is in touch with people. Above all, our council listens to local concerns, translates rules and governs local development."

I just think we place a lot more trust in the folks whom people in their community elect to government to best be able to make these decisions at the local level. That's just a comment that I would make.

Mr Dee: I have two brief comments. I very carefully did not use those words "trained seal." It's an insult to the role of members. I know most members try to execute their jobs with a lot of diligence, and you don't enjoy being in hotels away from your family and all the rest, but it's up to you, whether or not the process means anything. That's all my comments were intended to address.

As far as any comfort to be taken from the fact that the authority to make this decision rests with the local community, it doesn't really matter to me who is telling me I can't do it or who is taking away my rights; if it's the municipality or the provincial government or the federal government or the Queen, I don't care. People in low-income situations need as much flexibility as possible in making arrangements for their accommodation. Local councils need to listen very strongly to the people who elect them.

Mr Baird: I think they do. We met the mayor of the town and a councillor. They both do that.

Mr Dee: Yes, I know they do it. But what you end up with is a patchwork quilt where some areas allow these units and some areas don't allow these units. You end up with a concentration of these units in particular areas and excluded in other areas.

If there are concerns with how these units go in, with the safety of them, with building codes, that type of thing, by all means address them. But allowing municipalities to determine, "These types of units will not be here; we don't want people not within the economic framework of the rest of the neighbourhood living here," I think is a very harmful thing. To allow municipalities to say, "Only people with certain levels of income and with access to certain levels of money can live here; if you don't have access to that level of money, if you have to rent an apartment, you can't live in this particular area," is very wrong. It drives up the price; it reduces the accessibility of low-income housing for people.

This is taking place at a time when many of the other resources that used to be available to these people have been taken away. The reductions in social assistance in particular have had a tremendous impact on the ability of people to afford accommodation. This is one very real source of low-cost accommodation for those people that is being cut back on.

The ironic thing is that as much as the financial pressures are that you are under and your government is trying to address, this is a provision that doesn't affect those financial responsibilities at all; this is one thing you

could do, or you could refrain from doing, that would assist lower-income people in this province without costing the province a nickel.

The Vice-Chair: Thank you very much, Mr Dee, for your presentation this afternoon.

NORTHUMBERLAND ACCESS TO PERMANENT HOUSING COMMITTEE

The Vice-Chair: I would ask that the representative from the Northumberland Access to Permanent Housing Committee come forward, please. It's getting pretty close to evening, but we'll say good afternoon for now.

Ms Elisabeth Ziegler Simmons: My name is Elisabeth Ziegler Simmons. I'm the chair of the access to permanent housing committee here in Northumberland. To save a little bit of time, in our submission we've included some demographics about Northumberland county as well as what we do as a committee. In part, we're addressing the same section, section 59, of the proposed legislation as did Mr Dee, from a slightly different angle.

As the name of our committee implies, the mandate of the committee is to do whatever we can to improve access to permanent housing in the county. Section 59 goes counter to that, and that's why we appreciate the opportunity to make a submission today. What we're concerned about is the short- and long-term future of housing stock planning and housing stock in the county, based on what's happening in the province in other areas, the people who use the housing, and that all efforts should encourage rather than inhibit planning for that purpose. That's why the committee would like to make a recommendation as far as that section goes.

Our housing committee has been concerned in the last year with housing trends as they affect certain groups of people, which I've outlined in the submission. First of all, people with developmental disabilities are requiring more and more independent housing as they're being released from group homes and institutional housing. These are single people who require appropriate-size units and have limited incomes, whether they work or not. As more and more people in other segments of the population require housing such as apartments in single-family dwellings, the proposed legislation will inhibit their ability to have a place to live. Similarly, people with psychiatric disabilities as they're being discharged from institutions are in the same situation.

Low-income earners generally, while employment leans more towards short-term, contract and temporary positions, will require housing that better suits their consequently smaller incomes. Smaller incomes mean smaller units and in some cases apartments in single-family dwellings; similarly for seniors and, as Mr Dee mentioned, social assistance recipients, with the 21.6% cut to their benefits. In terms of numbers, if the maximum entitlement a single person can receive is \$520 per month in benefits and an average apartment in Cobourg in an apartment building is \$400, that doesn't leave a whole lot, which means that he's going to be looking for another kind of housing, such as apartments in single-family dwellings. Further, more families are, for economic reasons, needing to come together and likewise will require this kind of housing.

Bill 20 proposes to reduce that possibility. Not only does it reduce the possibility, it allows municipalities the option not to look at ways to address housing needs for their communities. It imposes unnecessary burdens on municipalities to enforce the legislation, it creates duplication with existing regulatory bodies and it increases government involvement unnecessarily in what is otherwise an effective and efficient system of maintaining housing. So, in short, the recommendation of the Northumberland Access to Permanent Housing Committee is to exclude section 59 altogether.

1730

Mr O'Toole: Thank you very much for your presentation. I know the concern expressed previously was asked by my friend Mr Baird. More specifically, when I was on local council—I think where this provision for basement apartments came in was that it was illegal, non-conforming and all over the map—the municipalities' biggest problem, and I saw it first line, was that there are inappropriate areas, not for any kind of societal reason or hierarchy of position in society.

It wasn't appropriate, the narrow streets, older central areas, and if for example second units were allowed in those homes, then parking, perhaps the servicing, the old pipes etc—can you understand that it is, in our legislation, going to be a municipal right to regulate if they want? And they should regulate. So can you see the need to regulate for safety, which was brought up before—not right across a whole area—that each site should be looked at, the municipality, the capacity of the streets, the parking, the other amenities? Do you see that it's in its proper arena at the local level?

Ms Ziegler Simmons: I basically agree with you completely, as long as the ability for municipalities across the province to look at creative solutions toward housing exists. To me, as Mr Dee pointed out, this seems to be more inhibitory rather than encouraging that kind of housing. What I'm not suggesting here is that everyone, people in single-family dwellings, go into the rental business. I don't think that's what the families are going after, so you're not talking about that kind of a load on the municipality as far as the infrastructure goes. As far as the quality of housing, that can already be enforced with what the municipalities in the province have as regulatory tools.

Mr O'Toole: Without getting into a dialogue, I want you to understand that a municipality has a certain population base and services, libraries etc to supply that. If everybody in new subdivisions—the point was made before that new home buyers were just moving in the second family, and that was never the original design intent for that subdivision capacity, for traffic control and schools and the rest of it. So you see the implications for an unregulated environment. It was just all over the map. It wasn't good for the persons with the need and certainly wasn't good for a realistic approach to services in a community. It's a dilemma; the municipalities should have some right to step in and administer it. I don't disagree with your point.

Ms Ziegler Simmons: If I can respectfully suggest that if that kind of a section is needed in the legislation, it's written in such a way that it creates the tools for the municipalities to look at creating the housing rather than

finding ways to stop it that still works within what the municipalities' resources are.

Mr Hardeman: Good afternoon. Going back to the previous question, I think some discussion or a question on it. Do you feel concerned that municipalities would use this as a restrictive approach to second units, as an intent, that municipal politicians somehow have a dislike for this type of housing?

Ms Ziegler Simmons: In my experience in the county, it's been very difficult to look at alternatives other than apartment buildings for smaller households, if you want to call them that, single people or single-family dwellings. I'm not trying to paint all municipalities with a brush of restriction, but recently in Hamilton township here in our county, the planning committee made a recommendation about granny flats and allowing them and providing the vehicle for residents in Northumberland county to have granny flats on their property for their family members. Before that, it wasn't something that people looked at as a realistic solution. In a way I would have to say, yes, I think that municipalities aren't going to look at those situations as positively as they would obviously revenue-generating housing developments.

I think the intent of the legislation has to look at encouraging rather than regulating further and diminishing housing stock.

Mr Hardeman: Looking at the start of your presentation, you speak of your board or your organization that you represent, and it does contain elected officials. I presume those to be municipally elected officials that are appointed to that board.

Ms Ziegler Simmons: Yes.

Mr Hardeman: What are those municipal representatives—what is their position on your board, as we deal with your presentation? Do they feel it appropriate that it should be a municipal option or do they feel that they could not go back to their municipal authority and make that decision?

Ms Ziegler Simmons: I don't think it would be a safe thing to speak for the mayor, but the mayor who sits on our committee has always been fairly open to looking at solutions that she can take back to her council. The access committee itself is not engaged in dialogue with the town of Cobourg specifically, so I really wouldn't feel safe in commenting on that.

Mr Hardeman: I don't want you to comment on what their position may or may not be, but I guess I really question why we have concerns that the same concerned people representing their community will volunteer their time and efforts to serve on your committee to look at the needs of the population for affordable housing, and then to suggest in the next breath that they could not be or should not be put in the position to be able to pass zoning bylaws to accommodate those needs that they're working so hard for. I guess I have some concerns trying to rationalize those two options being the same person.

Ms Ziegler Simmons: Considering that we're a county-wide organization, which means that we're concerned with all the municipalities in the county, and as part of a network of access to permanent housing committees, we're not just talking about Cobourg or all the municipalities in the county, for that matter, what we're

looking at is provincial legislation that's going to affect the municipality, and that's what we're concerned with.

Mr Gerretsen: Of course, the main difference is that people now have a right to put it in their houses and once you take that right away, you may or you may not get it back through local control, and that's where I come in. It wasn't the right before, and the previous government and the Legislature, by majority vote, rightly or wrongly, decided that people had a right to put it in. You've got this dichotomy now where in a subdivision you can have two identical houses and somebody that had a basement unit put in three or four years ago, it's legal now. In effect, the person next door could be told by a municipal council, "You can't put it in," and that's where I have some problems by taking the right away, quite frankly.

I think there's one other thing to remember, and it just deals with Mr O'Toole's problem, or the point that he was trying to make, that the demographics, particularly of subdivision living, have totally changed. Twenty years ago an average family was 3.5 members in the average house, now it's 1.9 and all you have to do is drive through some of the older subdivisions in our various communities—I'm talking about subdivisions that are 30 years old—and see how empty the streets are because all the kids have moved away. That's in a lot of cities that way, and nobody is suggesting that building codes shouldn't be adhered to. Nobody should be allowed to build one of these units if they cannot adhere to the parameters of the building code.

1740

Ms Ziegler Simmons: I have to agree.

Mr Gerretsen: In other words, you don't want illegal units or units that aren't safe to be built. In Northumberland county, do you have any idea how many second units there are in houses?

Ms Ziegler Simmons: I wouldn't. The stats that we have are based on registered apartments in single-family dwellings, so unless we polled each municipality for the units that they knew about, there wouldn't be really any way of finding out.

Mr Gerretsen: Is it your general impression though that the rents people are paying in basement apartments, or second-dwelling apartments, are less than what they would be paying in a regular apartment?

Ms Ziegler Simmons: Absolutely. The purpose of our being here—and this may or may not be the appropriate arena for us to do that—is to show that the legislation isn't just affecting municipalities, it's not just a planning perspective, but you're talking about thousands and thousands of people who otherwise would not have any housing at all. We're talking about people with the least amount of physical or other resources, abilities, to access housing. There should be another means of addressing it in legislation that is going to, as you said, address the fact that what was before a perfectly viable option no longer exists.

Mr Gerretsen: That's right.

Mr Lalonde: Coming back to this last sentence, subsection 207.3(3), I think it would be wise for the government to say at the present time that there will be no fee fixed for inspection. It's like if you were allowed

to drive at 80 miles an hour a year ago and today the speed limit is down to 50, and because you had driven at 80 miles in the past, you would be paying a fine. People who have gone as far as getting their basement renovated to accommodate this second apartment really are going to be penalized at the present time. It was permissible in the past, but today it won't be permissible if you don't meet the requirements.

But there's one thing we have to remember. The person who was here previously to you represented those groups many, many times, and I've seen them come into my office too. They complain that the apartment is too humid, the people have to go to the hospital, they have arthritis, and this is why it's very important that the municipality does inspect those apartments.

Ms Ziegler Simmons: Absolutely.

Mr Lalonde: I'm not against a second apartment in the basement as long as it does meet the construction code, and also the services are available for those areas. Mr Gerretsen had a very good point: In the older areas where in the past we used to have 3.9 per house, probably there should be something in this new bill that protects those areas, that would allow them automatically to have a second apartment in the basement.

The Vice-Chair: Thank you very much for waiting us out and making your presentation.

For the sake of the committee, the 5:20 delegate has cancelled and our 5:40 has not yet shown. What is the pleasure of the committee?

Mr Lalonde: Five minutes.

The Vice-Chair: Do we have the committee's consensus on a five-minute wait?

Mr Gerretsen: And then if he's still not here, that Dr Galt remain behind tonight.

Mr Galt: Could I make a comment, Madam Chair, just prior to going to the recess? In relation to the observation here today—and I think I reflect the feelings of the committee—in general, in a small town or a town of this size, the response we've received has been an experience for the community as well as I think an experience for the committee members in all three parties to participate in a place other than Hamilton, London, Thunder Bay, Ottawa—not that there's anything wrong with going there. I suggest that maybe all committees should look at at least one town stop, the Brockvilles, the Bellevilles, that kind of thing.

Interjection: Belleville?

Mr Gerretsen: Yes, of course, Belleville.

Mr Galt: Sure. Trenton, whatever. I think as a government we owe it to people in small towns to go and visit periodically. I know some committees do, depending on their activity, if it's very agricultural they do go to small communities, but for some of the others I think it's important that we do make a point to go to small-town Ontario to have our hearings.

The Vice-Chair: Thank you very much, Dr Galt. We will recess for five minutes.

The committee recessed from 1746 to 1751.

The Vice-Chair: Given I see a quorum present and no presenter has come forward, I adjourn for the day.

The committee adjourned at 1752.

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Chair / Président: Gilchrist, Steve (Scarborough East / -Est PC)

Vice-Chair / Vice-Président: Fisher, Barbara (Bruce PC)

*Baird, John R. (Nepean PC)

Carroll, Jack (Chatham-Kent PC)

*Christopherson, David (Hamilton Centre / -Centre ND)

Chudleigh, Ted (Halton North / -Nord PC)

Churley, Marilyn (Riverdale ND)

Duncan, Dwight (Windsor-Walkerville L)

*Fisher, Barb (Bruce PC)

Gilchrist, Steve (Scarborough East / -Est PC)

Hoy, Pat (Essex-Kent L)

*Lalonde, Jean-Marc (Prescott and Russell / Prescott et Russell L)

Maves, Bart (Niagara Falls PC)

*Murdoch, Bill (Grey-Owen Sound PC)

*Ouellette, Jerry J. (Oshawa PC)

Tascona, Joseph (Simcoe Centre / -Centre PC)

**In attendance / présents*

Substitutions present / Membres remplaçants présents:

Bisson, Gilles (Cochrane South / -Sud ND) for Ms Churley

Carr, Gary (Oakville South / -Sud PC) for Mr Maves

Galt, Doug (Northumberland PC) for Mr Tascona

Gerretsen, John (Kingston and The Islands / Kingston et Les Îles L) for Mr Duncan

Hardeman, Ernie (Oxford PC) for Mr Carroll

Rollins, Doug (Quinte PC) for Mr Gilchrist

Smith, Bruce (Middlesex PC) for Mr Chudleigh

Stewart, Gary (Peterborough PC) for Mr Baird

Wood, Len (Cochrane South / -Sud ND) for Mr Christopherson

Also taking part / Autres participants et participantes:

O'Toole, John (Durham East / -Est PC)

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ISSN 1180-4378

Legislative Assembly of Ontario

First Session, 36th Parliament

Official Report of Debates (Hansard)

Monday 26 February 1996

**Standing committee on
resources development**

Land Use Planning
and Protection Act, 1995

Assemblée législative de l'Ontario

Première session, 36^e législature

Journal des débats (Hansard)

Lundi 26 février 1996

**Comité permanent du
développement des ressources**

Loi de 1995 sur la protection
et l'aménagement du territoire



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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
RESOURCES DEVELOPMENT

Monday 26 February 1996

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DU
DÉVELOPPEMENT DES RESSOURCES

Lundi 26 février 1996

The committee met at 1028 in the Sheraton Hotel, Hamilton.

LAND USE PLANNING
AND PROTECTION ACT, 1995LOI DE 1995 SUR LA PROTECTION
ET L'AMÉNAGEMENT DU TERRITOIRE

Consideration of Bill 20, An Act to promote economic growth and protect the environment by streamlining the land use planning and development system through amendments related to planning, development, municipal and heritage matters / Projet de loi 20, Loi visant à promouvoir la croissance économique et à protéger l'environnement en rationalisant le système d'aménagement et de mise en valeur du territoire au moyen de modifications touchant des questions relatives à l'aménagement, la mise en valeur, les municipalités et le patrimoine.

ONTARIO FEDERATION OF AGRICULTURE

The Chair (Mr Steve Gilchrist): Good morning, all. Welcome to our second-last day of public hearings into Bill 20.

Our first presentation this morning is from the Ontario Federation of Agriculture. Gentlemen, I will remind you that you have 30 minutes for your presentation, which you can divide as you see fit between a presentation and a question-and-answer period. If more than one of you are speaking, I'd appreciate if you could introduce yourself for Hansard.

Mr Ken Kelly: Thank you, Mr Chairman. My name is Ken Kelly. I'm a vice-president of the Ontario Federation of Agriculture. I'd first like to introduce the delegation I have with me. Jeff Verkley is a member of our land use and farm practices committee. Ben Walpot is a member of our executive committee and comes from the Haldimand region. Peter Jeffery is one of our staff support people from the research and policy analysis department.

I would ask if we could have our brief entered on the record; that will free us from the necessity of reading it and we can just get into it and discuss it. I just got some wise words of caution from my cohorts here to keep the introduction and our presentation brief. I hope to do it in about 10 minutes, and then we'll try to deal with some questions, if we could.

As you probably realize, Ontario farmers are stewards of some 13 million of the developed acres in this province. Ontario farmers require a system of land use controls that respect their right to farm free from conflicts with non-farm neighbours over normal farm practices. We request that provincial right-to-farm legislation, the Farm Practices Protection Act, be strengthened to include

not only agricultural odour, noise or dust, but also light, vibration and the issues of animal care and animal housing.

At the OFA this year our theme for the year is Farmers Mean Business, and you can take a number of things from that motto. The first thing is that we're very serious about land use planning, and one of the more important things is that within the economy of the province, agriculture and the agrifood sector mean a lot of business. We have annual sales of almost \$40 billion in the agriculture-agrifood sector and \$6.2 billion of that is farm-gate receipts. We provide some 640,000 jobs in the economy. Recent material from McGill University indicates that for every \$1 million of farm-gate receipts, 31 jobs—19 direct, 12 indirect—are created within our economy. We believe that agriculture therefore is one of the very strong engines that will power the economy of this province to the year 2000 and beyond.

Any of you who were at our presentation at the pre-budget consultation two weeks ago will have that information in that brief, and certainly there's no need to repeat it. Twenty-five per cent of the agrifood industry in Canada is centred in Ontario. In Canada, agriculture and agrifood exports account for some 55% to 60% of the balance-of-trade payments. Those words are to centre and focus on the need for strong, vibrant agriculture based on a strong, vibrant agricultural base.

In our view, the provincial government has a strong role to play by helping farmers acquire the necessary tools to get on with the business of building not only a strong rural economy but a strong Ontario economy. We recognize that the business of agriculture is dependent on land, and the maintenance of that land base that supports Ontario agriculture is vital to Ontario's future growth and development. Certainly, we would encourage within changes to the Planning Act that we look very strongly at underutilized, underdeveloped and vacant areas of urban areas that could be very quickly and very easily used and put into production, instead of gobbling up more and more farm land to do more and more and more development that may well be done in better ways. If nothing else, I would like you to believe, leaving this presentation today, that agricultural land is not land that is being farmed until something better comes along. Agriculture is one of the better things that can be done with land.

Regarding the changes in policy that would make the Ministry of Municipal Affairs the sole agency that can appeal a planning decision to the OMB, we support a streamlined approach to the planning process, provided there are adequate safeguards for agriculture. Certainly, we don't, as I said earlier, want to get into a situation where development runs rampant over the countryside to

the detriment of our economy and to the detriment of our industry. The streamlined approach, though, does make a lot of sense to us, and the balance of that is in the brief here.

When we get to "shall have regard to," 4.0 in our brief, we support the change in the context of a strong provincial policy promoting the preservation of agricultural land, not at all costs, but in a reasonable way. To prohibit orderly growth and development in rural communities is to deny those rural communities the opportunity to manage and direct their own destiny, so we are very supportive of the terminology "shall have regard to" versus "shall be consistent with." We want to see a balanced situation here. We know that local communities need to have the flexibility to implement the larger policies and the larger visions of the province, but that's best done at the local level. It's best that it's not crammed down from 801 Bay or from anywhere within the bureaucracies of government.

The adoption of "shall be consistent with" imposed a cookie-cutter approach to land use planning. The restoration of "shall have regard to" empowers rural communities. It provides councils of these municipalities with the flexibility to protect agricultural land for future generations. But we want to see this change done, as I said earlier, in the context of a very strongly worded policy that deals with the preservation of agricultural land.

We have some reservations with the provision that would give counties the power to approve subdivision applications. While that is quite consistent with giving and delivering more flexibility to the grass-roots level, we still have to have some overall direction that would ensure that when these things happen they're done in a realistic way and done in a way that, at the best of times and at all times, if possible, provides for agriculture.

Regarding the shortened time lines for the approval process, we support streamlining that removes unnecessary duplication in so far as there are concurrent safeguards that ensure adequate opportunity for public comment. The shortened time lines, I think, are going to do two things: They are going to hasten the development process, but on the other hand, it's going to make it more difficult for opponents to appeal. We'd like to see a balance there.

As you probably realize, Mr Chairman, agriculture is very intensive in its need for labour and for attention to the farm when seeding and harvesting and haying, and we certainly would not want to see a planning process that people could use to expedite things at times when they knew the people who may have legitimate opposition to a proposal would be tied up in the fields and would not be able to attend or get involved or get on a list or make a representation.

Regarding the appeals issues to the OMB, again we generally support the amendments pertaining to appeals to the OMB. However, we're a little concerned with what we see in there that deals with, "Gee, if you didn't get up to the plate with your bat at the right time, you have no right to appeal." We believe the OMB should either accept or dismiss appeals based on the merit of the appeal, not whether you saw a half-inch ad in the back of the local paper in the middle of seeding and knew to get

to the right meeting on the right day to get your place in the line. An appeal that has merit is an appeal that has merit, and I think merit should be the basis on which the OMB either accepts or rejects an appeal.

When it comes to agriculture and the vision we have of agriculture and what we can do, a lot of what we're doing here today regarding Bill 20 hinges on two things that we consider more important perhaps than even Bill 20. The comprehensive set of provincial policy guidelines need to be very carefully considered, and we'll be making further representation in that area within the next two weeks. The implementation guidelines again are something we would expect to be consulted on. When we tie the comprehensive set of policy guidelines together with Bill 20 and then start to implement that at the local level, agriculture wants to be at that table to make sure that our goals and our vision are accounted for in that way.

Exempting municipalities from requiring ministry approval for their official plan or official plan amendments—we have some reservations with that proposal. Certainly there needs to be some level of safeguard to ensure that within the political guidelines, people are reminded of whether they had sufficient regard or didn't have sufficient regard, maybe almost like a senatorial situation where a level of second thought may be helpful to ensure that the province's vision is reminded, if it looks like something's being done locally. We're not talking about a cram-down approach here. We're just saying: "Hey, guys, take a look. We have a policy. Here's what it's supposed to do. Have you fully considered it?"

One of the things that we're constantly aware of is municipalities that begin to switch from a rural population to a mix of urban-rural population. We're continually confronted with municipal bylaws that mitigate against agriculture in areas that are still agricultural, and we believe that within government there should be some method—we will be making representations regarding the Farm Practices Protection Act—where bylaws that mitigate against normal farm practices should go to that panel for a ruling on whether they're normal farm practices or should in fact be controlled.

There's one more item I would like to point out having to do with the Development Charges Act. We believe that new agricultural buildings do not tax municipal and education infrastructure, and we recommend that all agricultural building construction be exempted from either development charges or education development charges.

With those few comments, I'd prefer to deal with some questions.

1040

Mr Jean-Marc Lalonde (Prescott and Russell): Thank you, gentlemen, for your presentation. I am concerned too for the farming community for the whole of this province and also the country.

On page 4 you have shown some concern about the distance requirements. In our county, farmers do face a major problem at present with the farming community versus the residential area which was constructed within the area. To your knowledge, what would be the acceptable distance between the livestock facility and the residential area?

Mr Kelly: I'm not going to try and pretend to be an expert witness in this matter. Certainly conflicts between rural farm businesses and those we would consider urban dwellers in the rural countryside have to be mitigated against to the best of our ability. As to what the proper distance is, my personal opinion would deal in terms of, "Gee, if you want to move to the country and soak up the ambience, that is part of the ambience you're paying for and it shouldn't be a problem to you." However, that has proven not to be the case.

We do need some flexibility in there. I think we're now into a formula situation, and that's one of the reasons we mention in our brief that having the Ministry of Agriculture, Food and Rural Affairs continue to be a commenting agency would be an appropriate thing. They are the professionals at dealing with the separation distances and understanding those and giving advice to farmers and protecting those farmers when it comes to siting residential housing in an agricultural area.

As to what the distance is, probably we need some more flexibility within those separation distance guidelines. With technology, with mediation and remediation factors, buffer strips and so many of the things that can be done out there, we need some flexibility within those distances quite simply because, whether it's prevailing wind or where you site your fans or a number of things, a set distance probably isn't the best way to deal with it.

Mr Lalonde: But there's nothing in Bill 20 that would protect the farming community existing at the present time. The problem that most of the farmers are facing at this time is that whenever a residential area is developed within the farming community, they're bound to go directly to the Ministry of Environment and there was no contact with the Ministry of Agriculture—or Municipal Affairs, in this case—and this is creating a lot of expense to the farming community or the farmer himself who is brought to court to defend this case, and the legal fees are paid by the provincial government. I really thought that in Bill 20 we would have had a clause that would have a study made before a subdivision is approved within a farming community.

Mr Kelly: In part of our brief we talk about not necessarily being too happy with the idea of a county or a region being able to create a subdivision, for instance, without Ministry of Municipal Affairs authorization.

Mr Lalonde: Just before my time runs out, there are times, though, that the farmers are really keen on selling a piece of land, and there are three areas within my county at the present time. The farmers hold a piece of land. All of a sudden, there's going to be a well drilled over there and they all appeal the decision of the Ministry of Municipal Affairs and also Environment, because they allowed a well to be drilled within that area. But the farmers were really in a hurry to sell that piece of land to collect a little money. I think both places should play a role in there.

Mr Kelly: If I might, just a couple of—

Mr James J. Bradley (St Catharines): We've only got one minute, so one quick question, if I can. It indicates that only the Ministry of Municipal Affairs and Housing will be able to appeal to the OMB. Do you believe it would be more advantageous to have the

Ministry of Agriculture, Food and Rural Affairs with that ability to appeal to the OMB should there be something that that ministry feels is of concern about a potential development?

Mr Kelly: Thank you, Mr Bradley. The whole tenet of our presentation deals in terms of a balance that brings about good decision-making. Certainly we would like to see the Ministry of Agriculture and Food around the table protecting agricultural land and protecting the farmers from non-agricultural encroachment.

We like the idea of the streamlined process. I don't think we want to see that streamlined process used as a cram-down process. We still want to ensure that there is adequate time and ability for people who are seasonally run off their feet to get in there and make their representations, point out issues that they believe to be important, and certainly we would like to see the Ministry of Agriculture and Food involved in the decision-making process. My anticipation is that at some point in time—and Mr Chairman, you may correct me on this—there may well be a protocol of understanding between different ministries as to when and how and to what level they'll be able to make their presentations and representations.

To answer your question, Mr Bradley, we're kind of, I wouldn't say uneasy, but we're a little apprehensive here because we are talking about Bill 20 today in the absence of the comprehensive set of policy guidelines, in the absence of those interministerial protocols of understanding and in the absence of any draft of the implementation guidelines. We believe the government will open the doors for good and legitimate and sound consultation as we continue to evolve this process with our organization and the organizations we represent. We believe that in the fullness of time we can get this worked out, but we certainly want to put on the record that consultation is absolutely critical if Bill 20 is going to work.

Mr David Christopherson (Hamilton Centre): Thank you very much for your presentation. Good to see you again. I certainly am quite taken with your theme this year: Farmers Mean Business. It looks like the sort of thing you could almost adopt as a permanent theme for your organization.

My sense, representing downtown Hamilton, is that more and more urban dwellers are beginning to realize that it does mean business, particularly in terms of the economy, and that you don't have to go all that far from Hamilton to be right into the heart of what you're talking about. I don't think it was all that long ago that most people thought you had to go to Saskatchewan or further afield to really get into the agricultural world. Being in government, sitting around the cabinet table, that becomes apparent as issues that affect farmers and other agricultural interests take centre stage.

I obviously don't agree with your position on changing back to "have regard to." I understand your position; you certainly understood ours. I wanted to make a couple of statements and then get your response to those statements.

First, your comment—if I'm wrongly paraphrasing you, forgive me—that this process is made somewhat more difficult without having the policies and guidelines completed. We've heard that in other places across the

province. Particularly for us, who believe that moving to the "have regard to" is going to water down the effectiveness the province really should have in this area, without seeing the policies they're having regard to, since that's the only link there is, tenuous as it may be, it's very difficult to know exactly what it is we're moving to. However, that's the way the government's decided to do it and we'll have to live with it.

1050

With that in mind, knowing now that we're going water it down to "have regard to," I would suggest that in some areas it'll have the effect of meaning the province isn't even playing much of a role at all. What we'll have is the ministry responsible for being not only the final check and balance but the only check and balance, yet we know there are cutbacks in all levels of government and I don't think there's any assurance that the expertise and the monitoring that should be taking place inside the ministry will be there. Your thoughts on that, and linked with that, there are many municipalities, particularly in the smaller townships, that do not have the staff infrastructure—and they would offer that up—to adequately deal with the complexities of modern-day planning and therefore do look to the senior levels of government to provide some of that assistance.

If they don't have it at the local level and the link to the province is tenuous through "have regard to" and the only ones actually responsible for monitoring are the ministry and they're under cutbacks right now, is it not fair to say that in some places there will be no provincial role whatsoever in the final analysis? Is that not potentially bad for all of us when we stand back and look at overall planning needs, particularly as it affects the loss of good agricultural land to future generations? There are a number of things in there, but just your thoughts on some or any part of that.

Mr Kelly: First and foremost, we have supported, under the present government and the former government, the concept of "shall have regard to" over "shall be consistent with," for the simple reason that what makes sense in the Golden Horseshoe, what makes sense in Dover township, what makes sense in Rainy River, what makes sense along the Ottawa border, what makes sense in New Liskeard are light years apart. The concept of a cookie-cutter policy that says, "You will do this or will do that" doesn't apply evenly or apply well across the province.

One of the things we need to point out here is that historically, the most accountable people in our chain of democracy are the local politicians rather than the provincial politicians, so we believe there should be a higher level of accountability when local people can hold local people accountable for bad decisions or reward them for good decisions.

As I said all along through this presentation about this balanced approach, we need a very strong provincial statement that respects and honours agriculture for its role in this economy and a policy statement that would indicate a very strong bias towards the preservation of agricultural land and—"supervision" is not the right word—a level of checks and balances that ensure that local municipalities, when they make these decisions, have looked broadly and totally at the policy statements

in the context of their local plans. We believe that balance will give us what we need in the line of good land use planning documents.

Mr Doug Galt (Northumberland): You've answered my first question in your most recent response. The Northumberland Federation of Agriculture, when we were in Cobourg, really was not supportive of "have regard to." They felt more they would like to see it "be consistent with," but I think you've expressed that very well.

I've been involved in agriculture all my life and grew up on a dairy farm. I guess what I've struggled with is what I refer to as the reverse reward. When it comes to severance of land, if you can get a lot severed you can get \$30,000 for it, but if you can't get it severed, it's still worth \$500 to \$1,000 as farm land. If we allow severances on poor quality, that's sort of a reverse reward compared to quality agricultural land.

Two questions. One is maybe a little off-topic but relates to policy, and that's looking at centres of agricultural activity versus looking at individual, little few-square-footages of quality land. Are you comfortable in severance policies, subdivisions, whatever, looking at centres of agricultural activity versus looking at the individual little quality ground here and there?

Mr Kelly: My granddaddy used to tell me, "Look after the pennies and the dollars will look after themselves." I'm a little concerned about saying a centre of agricultural activity, for instance, is anything 300 acres and larger, which would make anything 300 acres and smaller fair game for development and planning change. Agricultural land is agricultural land. You'll notice throughout the brief we do not talk about class 1, 2 and 3 land. We do not talk about prime agricultural land. We talk about agricultural land, because land that is and can be farmed has a use and has a value as agricultural land.

I want to talk a little about perhaps the error of making land use planning decisions based on historical agricultural production rather than having a visionary understanding of agriculture that deals in terms of agriculture as an evolutionary industry. A lot of the things we grew 50 to 100 years ago we don't grow any more. When you look at the fact that 95% of this world's population does not eat a North American diet yet 100% of North America is geared to providing surpluses for the 5% of the population that eats that diet, you take a look at the changing demographics within society and around the world and you take a look at the global markets that we want to use to power the economy of Ontario, you have to look at agricultural land, be it for fish farming, be it for non-traditional agriculture, be it for intensive agriculture having to do with vegetables and fruit and that type of thing.

Mr Galt: Basically, the efficiency of the economy is what you're really saying in connection with what land should be preserved or not, is what I'm hearing.

Mr Kelly: Yes, and it's a very simple concept. If you want agriculture to be all it can, you have to understand that one of the major ingredients agriculture needs to power this economy is access, unchallenged, to agricultural land.

Mr Galt: My other question would relate to the wetlands and the real concerns around the buffers around

wetlands. To preserve that, who pays? If you lose your rights to using it, or potential rights down the road, who's responsible and who should pay? Is that the farmer's responsibility, the local municipality, the province, the federal government, Natural Resources, interest groups? Who pays?

Mr Kelly: I'm going to back up and come at it from a little different angle. I think we need to understand that farmers are good environmental stewards. The farmers of Ontario are viewed worldwide as being the leading edge of environmental responsibility and stewardship on their farms. We are not for the most part environmental preservationists, but we are certainly good environmental managers and good environmental stewards.

When it comes to who pays, we've had many go-rounds over the last number of years, and again this is where the flexibility becomes very important. If someone were to sit south of Highway 401 and make a decision that would negatively impact my ability to pursue normal farm practices or to utilize an area of the property that I bought as part of my business to make money on, somebody would have to pay for that, and it certainly should not be the farmer.

But where we're at in this province and have been for quite some time, the province wants pure air, somebody has to pay, but the province doesn't want to pay. People want clean water—and certainly we don't believe that we as farmers should be allowed to pollute at will; we don't believe in that, and those are the two bad examples. But when somebody wants to fence off 400 feet along a ditch you dug to drain your farm, pretend it's a buffer zone and call it a wildlife habitat, the farmer ain't gonna pay for that. If somebody wants to do that, I think they should get out the chequebook and then we'll sit down and have a chat.

1100

The Chair: Thank you, Mr Kelly and your associates. We appreciate your taking the time to make a presentation, a very thorough one.

Mr Kelly: In summation then, thank you very much for this opportunity. We appreciated being here. We thank you very much for your attention, for the good quality of the questions that you've had for us, and we ask that you give full consideration to not only our comments but to the brief that we have prepared for you.

The Chair: We certainly will.

REGIONAL MUNICIPALITY OF NIAGARA

The Chair: Our next presentation will be from the regional municipality of Niagara planning department. Good morning. Again, we have 30 minutes available for you to use as you see fit, divided between a presentation and question-and-answer time.

Mr Corwin Cambrey: Thank you very much, Chairman. My name is Corwin Cambrey. You have the agenda. I'm a professional planner with both the Canadian Institute of Planners and the Ontario Professional Planners Institute. I'm here to make a presentation on behalf of the regional municipality of Niagara. You have our submission, which was approved by regional council on February 15, 1996. Unfortunately, Councillor Bill Smeaton, chairman of the regional planning and develop-

ment committee, sends his apologies. He wanted to be present, but work commitments prevented him from being here today. So I will highlight the brief. I don't propose to go through it all; some of it was for the information of the planning committee and council.

Starting on page 1, though, looking at the summary, I think—and your previous discussion had this—probably the most prominent of these changes is returning to “have regard to” the provincial policy statements from “be consistent with,” which was put into place in March 1995. Also, we wish to highlight, and I'll point these out later, three significant changes that have the effect of reducing the role of municipal councils and official plans and deserve some reconsideration. Then other notable changes related to reduced time frames for reviewing applications and dropping the requirements allowing accessory apartments as of right are highlighted, but we're not making comments on those other than to say that we don't find the reduced time periods to be too difficult.

The last paragraph: I wish to point out that the comments on the Planning Act changes are made in the belief that the provincial government supports the development of quality communities in which people want to live and work. This is achieved through the public planning process, which provides a framework for integrating individual decisions to achieve the public good. So it's an overall framework, and that's an important concept of the public good.

Turning over the page, I'll go through this. These are detailed comments. First, on “have regard to,” in exercising any authority that affects a planning matter, municipalities, ministries etc are to “have regard to” the provincial policy statements, which are also out for review. The reinstatement of the phrase “have regard to” replaces “be consistent with.” The province expects that the reversion to “have regard to” will give municipalities more flexibility and the province indicates the focus is on results rather than how these results are achieved.

The significance, I believe—and there's a lot of debate about this—of this change will depend on its actual application in preparing official plans, reviewing development applications and OMB hearings. I know the “have regard to” phrase was interpreted fairly strongly at the Ontario Municipal Board.

Specific comments relate, first of all, to the official plan's relationship to policy statements. The present Planning Act makes provision for recognizing official plans as, in effect, the policy statements for a municipality once they have been approved. This is an important point, and that's subsection 3(8) of the existing Planning Act. The provincial policy statements would, in effect, no longer apply to that municipality, at least not to topics covered in the official plan. Bill 20 proposes to remove this section of the Planning Act.

The removal of subsection 3(8) is of concern. Uncertainty is introduced. The provincial policy statements would still remain on the table in reviewing rezonings and subdivisions, for example. This creates the unfortunate possibility that a development proposal agrees with the official plan but, someone believes, not with the policy statement. To remove this difficulty, subsection

3(8) should be retained with suitable rewording, to "have regard to" from "be consistent."

The regional council recommends "an official plan or part of an official plan approved by an approval authority or the municipal board after this subsection comes into force shall be deemed to have regard to the applicable policy statements issued under subsection 1." Therefore, when you have an official plan approved for regional Niagara, Timmins or wherever, that is the policy statement for that area, and not the policy statements. This will remove this area of concern and uncertainty that will occur if both of them remain on the table for that area.

The next point is exemptions of official plans from approvals. The possibility of exempting official plans or amendments from provincial or, in Niagara's case, regional approval introduces, again, uncertainty and the prospect of more Ontario Municipal Board hearings. The intent of exemptions may be to speed up the planning system; however, a faster planning system is being achieved by shorter review periods and delegation approvals to regions. Regional Niagara's initial experience indicates a very short approval time for official plan amendments and thus little need for exemptions.

What the proposed changes do is raise some doubt about the status of an official plan or amendment if it is only adopted by a municipal council. Without approval, it may be questioned whether the official plan either had regard to the policy statement—it wasn't approved by anybody, so did it have regard to the policy statement?—or is in conformity with the regional official plan. It's adopted by a local council, but is it approved? It wasn't approved by the region; it wasn't approved by the province. What is it? Subsequent rezoning bylaws implementing the official plan, for example, then may be subject to questions related to the policy statements or conformity with the regional official plan.

Another concern involves more appeals to the Ontario Municipal Board. Under Bill 20, if you have a concern about an official plan amendment, the only option is to appeal it directly to the Ontario Municipal Board. This is costly and time-consuming. Under the existing Planning Act, the approval authority has the opportunity to try to resolve conflicts, thereby either removing or reducing the issues referred to the Ontario Municipal Board.

Regional council recommends that official plans and amendments still be approved by the appropriate approval authority in order to avoid or reduce uncertainty and appeals to the Ontario Municipal Board.

The next point relates to regional council authority to the OMB, on the bottom of page 3. Bill 20 removes regional council's authority to consider and, if appropriate, refuse requests for referral of an official plan or amendment to the OMB; that's subsection 17(36). Under Bill 20, there is only the appeal to the Ontario Municipal Board. The existing Planning Act sets out some criteria on which regional council may refuse or refer all or part of an official plan to the OMB. These criteria include no apparent land use planning grounds; not made in good faith or is frivolous or vexatious; only for purposes of delay; premature due to lack of servicing; or no oral or written submission. The results of the change—namely, that if you appeal it goes directly to the OMB—will be

more amendments before the Ontario Municipal Board. Also, the opportunity to resolve issues locally is removed.

The recommendation of regional council: That the opportunity for regional council to consider and, if appropriate, refuse requests to refer official plans and amendments to the Ontario Municipal Board be retained as provided for in the existing Planning Act.

1110

We turn over to page 4. The last specific point that council wishes to make is this issue, which is kind of startling—transfer of unappealed official plans to the Ontario Municipal Board. Bill 20 proposes that the OMB may require a municipality or approval authority—regional council, for example—to transfer other parts of the official plan to it for approval even though the original appeal did not include these parts of the plan. This section is new; it's subsection 17(49). It's sort of a zinger hidden way back there. This provision is a clear transfer of responsibilities from municipal council, any municipal council, to the Ontario Municipal Board. For example, the OMB may require that a draft amendment not adopted by council be transferred to it because it is dealing with another amendment adopted by council and appealed. This draft amendment, which would have undergone local review and possible revisions, is now transferred to the OMB for revision, approval or refusal.

Regional council recommends that subsection 17(49) of Bill 20 on the transfer of unappealed official plan amendments not be included in the Planning Act, as it reduces the opportunity for local review and municipal councils' responsibility.

The other points here are highlights for the information of council, such as the reduced time periods, which we're not making comments on.

The second point: Failure to meet the review periods, such as 90 days for official plan amendments, means the applicant may appeal to the OMB. The applicant may choose not to appeal at this point, particularly if the municipal review is proceeding and the prospect of an OMB hearing is far off and costly, so that the review can continue.

The next point is about prescribed information, at the bottom there. Only certain prescribed information is required. More specific information about the characteristics of the site or the effect on traffic, for example, may also be necessary to evaluate the suitability of the application for the community. It's anticipated most applicants will be willing to provide this information rather than risk an appeal to the OMB, where the information likely will be required in any event and the prospect of a hearing is months away.

We have further comments, and then the last point on the last page, the conclusion, page 6. The effect of the proposed Planning Act changes to Bill 20 hopefully will not affect a municipal council's ability to consider the pluses and minuses of an application as it may contribute to the community. In most cases, shorter review periods seem acceptable, although there will be larger or more difficult applications requiring more information or time.

That's the submission of regional council on Bill 20.

Mr Christopherson: Unfortunately, most of my comments and questions would come under the category

where you've chosen not to make any comments. I don't know whether you're prepared to take a stab at those or whether you would try not to.

Mr Cambray: Sure, anything you want.

Mr Christopherson: The issue of public meetings no longer being required for subdivisions: Given the time that I spent on local council here, I was on the planning committee that entire time and I know that along the way we were constantly beefing up our ability to advise citizens of public meetings, making sure they knew the details of what was happening and encouraging them, because many times people would find out after the fact and legitimately, from their perspective, feel left out of the process. Now, at one of the key, final decision-making stages, the public will be completely out of the loop. Do I gather from your lack of comment on that that you agree with the change, or do you have some concerns about that?

Mr Cambray: The short answer is no, I don't have a concern. That's reverting back to the way it was. Also, some of the local municipalities do hold informal public meetings on the topic. In regional Niagara, we post a sign on the property indicating the application and the nature of the application, as well as allowing individuals to appear before the planning committee if they have a concern.

Mr Christopherson: We do the same thing here. I guess my concern would be that you say "council may," and in your community it may not be a problem, that you would indeed offer up a lot of informal meetings, as many as you choose to have. Our concern, looking at a province-wide set of rules, is there are municipalities that may decide not to, for whatever reason. We think there's a real loss of public input into this decision-making by taking this out of the provincial realm.

Accessory apartments: From my own experience, one of the benefits of providing a province-wide, as-of-right provision was that you didn't have one municipality being what I would characterize as very progressive, and ensuring they're providing affordable housing and doing everything they can to meet the needs of all their citizens, and there can be neighbouring communities that choose to take a different approach and that puts enormous pressure on that first municipality, both political and real, in terms of what's happening on the streets and in the communities.

Do you not think we lose something overall, not just from your own community but overall, in the provision of affordable housing by now reverting back to individual municipalities deciding, where we may actually have them side by side, where some are providing and some in effect are putting up walls and excluding what I would call certain classes of people.

Mr Cambray: In that case, I think there is a concern here. Regional council did support accessory apartments, and several of our local municipalities, even before it was required, did make amendments to allow accessory apartments; others did not. I think it is an area that is a concern. There was intense opposition from some local municipalities on a provincial basis, but it is a concern and that concern is carried over into the policy statement

which does not use the words "affordable housing," unfortunately.

Mr Christopherson: That's nice to say going into my last point, because once we start talking about the policy statement, now that we've moved back to or the government's planning to move back to "have regard for," in effect they're watering down the ability of the province to ensure that these policies are being met. I keep seeing time and time again, in all the communities we go to, that it provides more municipal flexibility. If that's the only goal, why bother having provincial policy statements, I would submit?

Mr Cambray: That's a good question. It depends on the spin. There's quite a debate about how you look at this "have regard to" and "being consistent." "Consistent" was only in for a very short time, and as I said in the comments, "have regard to" was interpreted quite strongly by the Ontario Municipal Board, that you had to consider it and take it—you just didn't look at it and discard it. You considered it and weighed it and had to adapt it. I think if past practices continue, that "have regard" will allow some flexibility but still allow the use of those provincial policy statements.

Mr Bruce Smith (Middlesex): Thank you very much for your presentation. I want to revisit page 2 of your presentation, and Mr Christopherson has mentioned this already, the "have regard to." Unless I'm reading this incorrectly, it's presented as if regional council really doesn't have a position on this. You recognize the flexibility component, the ability to address the "have regard to" based on past practice, and to a certain extent you suggest that the flexibility is inherent in the actual application and preparation. So to me you're suggesting it depends highly on individual applications. Does it?

Mr Cambray: That's correct.

Mr Smith: Is that correct?

Mr Cambray: Yes.

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Mr Smith: My question: (a) Is regional council not taking a position on this? (b) I'm still struggling to see, given your comments about "have regard to," how future practice won't see the flexibility and balance that we're attempting to achieve with this particular change.

Mr Cambray: On the (a) point, the council has not made a recommendation on that topic and has not chosen to do that, and therefore based on the presentation, they accept going back to "have regard to," which is the way we were working before.

The second question?

Mr Smith: The second question was more in line with your concerns regarding the flexibility. As a professional planner, would you not, from your position, agree that the "have regard to" provides you the flexibility in terms of evaluating and administering various official plan amendments and future planning documents for your community?

Mr Cambray: Yes, I think it does provide more flexibility than "be consistent with."

Mr Ernie Hardeman (Oxford): Thank you very much and good morning. On page 3, you discuss the issue of direct appeals to the OMB, and you express concern about a lot of issues going to the OMB that could've

been resolved locally in the present system where it's a referral. So there's a lot of local discussion goes on as the OP amendment is lying on the minister's desk, because waiting for the minister to refer it, the local municipalities continue to negotiate with the applicant to try and achieve a consensus.

Would you not see, in your municipality, that that negotiation would now go on prior to the applicant wanting to appeal it to the OMB? Could you see the applicant wishing to be in discussion with the municipality and even see the light at the end of the tunnel, see that we can come to some type of consensus, but still rushing out to appeal it to the OMB?

Mr Cambray: As I said earlier, the applicant in doing the time periods and for review would probably, if it's progressing, wait to see how the review came out, but I think that in certain cases they might wish to appeal it to the Ontario Municipal Board and this allows for that appeal directly. It removes responsibility from the regional council, in this case, as the approval authority because the council could, just as the minister does now, hold it and allow discussions to go on to see if some resolution of the conflict, a mediation, could occur to solve the issue, whereas once it goes to the OMB, it's in the OMB's court and you remove it out of the council, the local consideration at that time.

Mr Hardeman: But in those cases, and correct me if I'm wrong, the request to send it to the OMB on an appeal would not be made by the municipality, but would be made by the applicant. Would they not be very anxious to resolve it locally prior to requesting it be appealed?

Mr Cambray: I agree with your statement, but the way Bill 20 is, it's not a request; once you have somebody saying they want it referred to the OMB, it goes to the Ontario Municipal Board. Before, the way it is now, you request the approval authority, being the minister or the regional council, to refer and they consider it based on those criteria that are in the plan right now. Maybe the difficulty is that I've heard some people not like all the criteria. That might be dealt with, but it allows for local discussion. It's on the table. You can discuss it.

The way it is now an appeal is an appeal. The council has no authority to hold it back. They must refer it to the Ontario Municipal Board, the way it's proposed in Bill 20. It's a very significant change, sir.

Mr Bradley: My first question relates to the fact that after November 16, new development charges, bylaws or amendments to existing development charges will require the approval of the Minister of Municipal Affairs and Housing. Dr Joseph Kushner, small-c conservative economist from Brock University, has done an excellent paper demonstrating that despite what many people think, with development particularly of a residential nature, the assessment gained from that does not in net benefit a municipality, particularly when it's a bedroom community such as the Niagara region is beginning to be for Metropolitan Toronto.

Are you not concerned that now that the Minister of Municipal Affairs has the right to say what new development charges you shall have, the regional municipality is going to have to assume in its tax base, among all its tax-

payers, even more of the cost of development as opposed to having the development itself incur those costs?

Mr Cambray: That's an excellent question. Unfortunately, the council's brief doesn't deal with it. We haven't dealt with the development charges, but it has been discussed and there is a concern along the lines you mention.

Mr Bradley: I won't get into the battle over "consistent with" and "have regard to" right now. Would you not believe that argument could be resolved only when we have the provincial statements before us? Apparently they go under revision, because of course some people are itching to build on the escarpment and get right on those wetlands and so on, because they're nice places to build, it's nice to have estate houses in there. Is there a concern that the government shouldn't move forward until such time as we see these actual statements, so we know whether "have regard to" will be sufficient or not?

Mr Cambray: That's a good point also. We have the draft, as you know, and the region has a report on the draft, and it depends what the final form will be. I think it also depends on two other things: the implementation guidelines, which we haven't seen—we've seen the previous ones but we haven't seen the new ones. The last point, it depends on how many provincial staff are around to oversee those provincial policy statements.

Mr Bradley: How can development approvals be speeded up at a time when governments at the provincial and local level are in fact cutting their staff and limiting the ability to carefully scrutinize the plans while at the same time speeding them up? How can that possibly happen when there are such drastic cuts taking place?

Mr Cambray: That is another good question. I would like to answer it this way, which may not be directly, Mr Bradley: Under the past systems, whatever system we were in, in Niagara we have lots of room for development. We have over 55,000 units on sites available for housing within the urban area. We have over 17,000 sites approved for housing. We have 7,000 acres for industrial land. So the past systems did allow and did provide for development and we have more than enough, while at the same time trying to preserve agriculture and environment and the Niagara Escarpment.

On a regional basis in the past systems and this system, we believe we can meet the time frames, but the past systems also allowed more than enough opportunity for economic development.

The Chair: Thank you, Mr Cambray, for taking the time to make a presentation to us today. I appreciate it.

PRESERVATION OF AGRICULTURAL LANDS SOCIETY

The Chair: Our next presentation will be from the Preservation of Agricultural Lands Society, Dr John Bacher. Good morning, doctor.

Dr John Bacher: Good morning. Thank you very much. Also with me is the treasurer of the Preservation of Agricultural Lands Society, Gracia Janes.

I want to say that I've been involved in farmland preservation all of my adult life. I have had some opportunity to review now three changes to the Planning Act. This is quite different than the other two. In addition to

the lengthy process that the Sewell commission underwent, in the government of William Davis the Comay task force went about I think it was at least a five-year process, it seemed, of examination of the Planning Act before the 1982 Planning Act changes were made. This hurried approach to changes is really quite unprecedented and I think dangerous.

Regarding this matter of the "shall be consistent with" or "have regard to," our concern about this is that the "shall be consistent with" is less ambiguous. I think that's a very commonsense dictionary comparison of what the two terms would mean. It's interesting that when the Sewell commission was looking at what it would use, it was thinking of the term "compliance" and the "shall be consistent with" was developed as a compromise.

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Another point about this matter of the "have regard to" or "consistent with" that was brought to my attention by Elbert van Donkersgoed of the Christian Farmers—and he will be appearing before you later in the day. He made the point that in the past there have really been only a few policies under the Planning Act. Until five years ago, the only policy that caused contentious hearings that would get to the OMB would be the aggregate policy. He made the point that under a circumstance like that, where the aggregate industry was a powerful group, the term "have regard to" would tend to be given a much stronger interpretation than it would be for the newer type of policies that have been developed since the wetlands policy was introduced only five years ago.

I certainly think Mr Cambray made a very good point just a moment ago about this emphasis on red tape and delay as causing problems. The very same point he just made, I made to the Sewell commission myself a number of times. Unfortunately, they didn't take it seriously enough so I was glad he just made this comment, because it was something that he did in his own research at one time and seemed to have ignored in his older years. It was that I think if you look at any part of Ontario, there are already areas where development can take place where all the regulatory barriers have been broken, where you could get a building permit. This is in quite a number of different areas.

There's lots of record all over the countryside and there are registered plans of subdivision that have a large number of lots throughout Ontario where building permits could be gotten. So theoretically, you could have a huge explosion in development activity on all the areas where you have development approvals. I'm very heartened that Mr Cambray made this comment, because it was something that was missed by the previous examination of the Planning Act. I think this point was ignored because of the point I made in this brief that the commission was very much wanting to try to achieve a politically acceptable compromise.

An important change that's been proposed is the end of the requirement that upper-tier municipalities bring their official plans up to conformity with provincial policies before there is any delegation of the approval policy. This was sort of the heart of the compromise that was struck in the last Planning Act. The theory was that, "We'll delegate these powers to the municipalities, but in

exchange for that they will bring up their plans to conform to provincial approval." This is where I go into greater length in the brief on pages 3 and 4, because this is what is really critical to us.

Apart from the historical matters which I'll refer to in this brief, a matter that struck me this morning about the importance of provincial approval powers, these often give people who are concerned environmentalists in the community enormous influence to improve municipal plans without getting to the expense of a hearing.

There are farmers who are members of our group—the Grandonis in Niagara Falls—and they commented extensively on the Niagara Falls official plan. Now, when they made their comments to the province, the province would then later say that they'd received these concerns, and the municipality would be happy in most instances to modify their plan. This is an example of the power not causing a great expense, and I think if this is taken away what you would tend to encourage is instead a costly hearing at the Ontario Municipal Board.

What we focused on in the brief on page 4 is this matter of the historic lack of conformity to provincial policy in the area of food land preservation. The Food Land Guidelines came out in 1977 and they provide a very good model for municipalities to preserve food land if they want to. As we show in this brief, there are many municipalities in the province that did: in the Waterloo region, in Perth county, in Huron county, Oxford county, the region of Waterloo.

There are other municipalities where the Food Land Guidelines have just been a dead letter, and they would have been a dead letter in Niagara if we didn't have the experience of what we called the monster OMB hearing. This is a hearing that went on for two years and cost \$2 million. It's generally these monster hearings, I think—people who are eager to cut red tape and save costs, they always point to these as the example of the need for change or reform.

This is, I think, a hearing that was caused by the ambiguity of the situation which the Planning Act reforms tried to address, because then municipalities wouldn't try to gamble and think that they could defy the provincial policies. It would all be clear that if they wanted to have these approval policies they would bring their plans into conformity with the provincial policy.

On page 5 we point out that this is what worked very well in the state of Oregon. Generally, for people who are concerned with farm land preservation they talk about what models work for farm land preservation. In terms of zoning—there's other methods—but when we deal with zoning, what is seen are the two models at work called the Oregon model and the reserve model. The reserve model is a system in Quebec and British Columbia where the municipalities essentially lose zoning powers over agricultural land and it's transferred to a commission.

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As an alternative, there's essentially the system we have in Ontario. Where it would work is if used the same procedures that are applied in Oregon. This was adopted in the last changes to the Planning Act. It's important to note that these weren't in the original draft of the Plan-

ning Act, but when this point was made, it was understood and the act was amended.

What the system in the current Planning Act and in the state of Oregon requires is that there be conformity within five years in terms of the policies in the local municipal plans being in conformity with the policies of what in Oregon is the state level. An examination was made in Oregon that yes, all the municipalities did conform five years afterwards, so you didn't get this odd situation we have in Ontario, where there's this checker-board system across rural Ontario of what municipalities abide by provincial policies.

I would also like to point out the comments that were made by the Waterloo regional planning department. Waterloo region has one of the best economies of the province, I think the lowest level of unemployment. They made an interesting comment recently. The department found that their plan: "was approved in full conformity with the comprehensive set of policy statements under the authority granted to the minister by the Bill 163 Planning Act reforms. During the official plan approval process, provincial, regional and area municipal staff worked cooperatively with the Waterloo Federation of Agriculture and the representatives of the Mennonite community to ensure that the interpretations of the new policy statements were reasonable, and that the policies protect both the agricultural resources of the region and the economic vitality of the rural community."

I wanted to quote from that because I think it demonstrates what a lot of people think is impossible. When these Planning Act reforms came out, these were dismissed often as pie-in-the-sky things, that the municipalities would never have the resources to implement the reforms, wouldn't be able to undertake the studies and there would be no consensus in the community as to the desirability of the reforms. Well, here Waterloo region has actually brought its plan into conformity with these policies, with the support of the farm community. Had the existing regime gone forward with the Planning Act, I assume they would soon have been given delegated approval policies.

I think this shows that the type of Planning Act system that was legislated a little over a year ago was a practical and feasible one that will protect the interests of the environment and the economy and the farm community in the province. With that, I'll end and go to questions.

Mr John O'Toole (Durham East): Thank you very much, Dr Bacher, for your presentation. In your introductory remarks, you suggested that there seemed to be an inordinately speedy process with Bill 20. I just remind you that there was an exhaustive consultation process just recently with the Sewell commission, which you've commented on. In that respect, I believe that what is being attempted is more of a balance in Bill 20, an opportunity to allow the local municipalities to have the input they've so dearly requested through AMO and ROMA and other groups.

Your statement on page 6 reinforces exactly that. You've said that the Waterloo region went through a lot of consultation with the agricultural community to come up with consistency with the policy guidelines. If the process worked and it was the local municipality that was

able to do it, and when I look at what was referred to this morning by the Ontario Federation of Agriculture as the cookie-cutter approach, the centralized approach of planning that was proposed in Bill 163 in being consistent with the policy, which do you think works better when you work with the local municipality with the right sets of policy guidelines or when you have a centralist map of every piece of agricultural land in the province and you must conform? Which is a more reasonable and realistic partnership in stewardship?

Dr Bacher: The point about Waterloo illustrates the key point in my brief, that Waterloo conformed with the Food Land Guidelines right in the late 1970s. For a municipality like that, you would not have needed changes to the Planning Act; the 1982 Planning Act would have been fine. The problem is that historically other parts of the province have pretended that the Food Land Guidelines don't exist. In order to get them operating there, there needs to be the sort of changes that were made recently to the Planning Act or else they'll never be in conformity with the Food Land Guidelines.

Mr O'Toole: I would concur, as many do, that there were many strengths and extreme consultation with Bill 163. In fact, we're building on that and looking for the balance, the balance that it was suggested was missing. Do you feel the best place to make a decision is in the area where the decision is most applicable or do you think it should be removed to a court-type system, ensuring that the printed documents are conformed to, whether it's in food land or whether it's in housing? Don't you think the local people are responsible stewards?

Dr Bacher: It depends. In some areas it's been shown that the local people are responsible; in some areas it's not the case. If all the municipalities in 1980 had come into conformity with the Food Land Guidelines, we wouldn't have been lobbying for changes to the Planning Act and a lot of what later transpired wouldn't have happened.

Mr O'Toole: As you said, that set of OMB hearings, which cost a lot of money, certainly that type of process has got us to where we are today. I think people are more aware of the need to balance and recognize the sustainability and the environmental issues and land stewardship issues that you expressed in your presentation.

Dr Bacher: This is a key point, because Niagara is a municipality where the local plan does conform to the Food Land Guidelines. This is the only one that came about through a litigation type of process, and that was because of our society. It's very difficult to expect a local group to influence—and this is why it hasn't happened in other parts of the province. The Food Land Guidelines essentially are a dead letter.

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Mr Bradley: My first question relates to the inability now of the Ministry of Environment and Energy, the Ministry of Natural Resources and, say, the Ministry of Agriculture, Food and Rural Affairs to appeal to the OMB under the new provisions of this act. Now all appeals, when the government has concerns, must be undertaken by the Ministry of Municipal Affairs and Housing. Does that concern you, that the other ministries

will not have that authority today and it will be the Ministry of Municipal Affairs and Housing?

Dr Bacher: It is a concern. For one reason, I don't think some of the Ministry of Municipal Affairs and Housing people who would be making the decision would necessarily have the technical expertise. Let's say it's a decision about groundwater. What would some person in the Ministry of Municipal Affairs necessarily know about that?

Also, it would seem to almost institutionalize the political processes that already go on to see if something is appealed to the OMB by ministry. I know from experience that often if you're going to launch an appeal, it's discussed with a cabinet minister; this isn't totally a civil service-driven process. It would be very much a concern that it would almost create a second barrier to an appeal being launched, other than the real vetting process that already happens.

Mr Bradley: In terms of development charges and the cost to municipalities when development does take place, often a hidden cost is picked up by the community as a whole when you don't have development charges. Are you concerned now that the Minister of Municipal Affairs and Housing will now have the final say for new development charges?

There's a suggestion that perhaps those development charges would not have to apply to so-called soft services—some people would define those as educational services, perhaps parkland, perhaps libraries and so on—and may refer only to hard services such as sewer and roads. Does that concern you that the Minister of Municipal Affairs will have the say on that and not the local municipality?

Dr Bacher: One thing that comes to mind immediately is the parkland dedication. Is this part of these charges? I know in the Niagara area parkland dedication is often very important in preserving a woodland that's threatened by a subdivision. This would seem to leave what's a very sort of ironclad parks dedication feature to be completely open-ended. That would be a concern because I know it's worked fairly well and I wouldn't want to see it eroded in this fashion.

Mr Christopherson: I want to thank you very much for the presentation. Obviously your experience in this area and your expertise comes through very clearly.

In your opening remarks, you talk about the speed with which this is moving through and the secretiveness that seems to have taken place in pulling the policy together. I think it's fair to say when we look at the track record of this government with regard to Bill 7 and Bill 26 that there's a consistent pattern of ramming things through, particularly those things that are of an ideological bent as opposed to any attempt to try to reach a consensus, and this is just another example of that.

I want to ask for your comment on what you think the long-range, worst-case scenario is under these proposals in terms of how it will affect planning in Ontario. What could the result be, in your opinion, using examples and language that the average person would understand, if you could, removing us from the details of the process themselves? What is the possible worst-case outcome, in

your opinion, for the people of Ontario, particularly those who stand to inherit the Ontario that we all love down the road?

Dr Bacher: I think what's more disturbing is when these are combined with other things not in the act. The biggest feature I'm concerned about—it came up at a OMAFRA consultation in Guelph on the new agricultural policies. The farmers there said, "These policies are not that bad, but is there going to be the money to enforce them?" There doesn't seem to be; the land use planning branch of OMAFRA is already experiencing cuts. The person who does the Niagara region is losing her position, so it would mean that Niagara would be combined with the larger area. Before, it was combined with the Haldimand-Norfolk region, which has its own very severe problems of land fragmentation. If there isn't the budgetary provision to enforce the provincial policies under the Planning Act, it could be a mess of urban sprawl if that is the case. This is our biggest concern.

The Chair: Thank you for your presentation here today. We appreciate you taking the time.

Our final presentation of the morning will be the Conserver Society of Hamilton and District.

Mr Bradley: "Conserver" or "Conservative"?

The Chair: Did I say "Conservative"?

Mr Bradley: No. I was just wondering.

The Chair: Is Mr Hutton here this morning?

Mr Bradley: Maybe he thought we're on strike.

The Chair: So there's no one from the Conserver Society with us yet.

Mrs Laura Dodson: I'm next in line, and I'd be delighted to move up.

The Chair: We'd be delighted to have you move up. Thank you.

NIAGARA-ON-THE-LAKE CONSERVANCY

The Chair: Ms Dodson, from the Niagara-on-the-Lake Conservancy, We appreciate you helping us stay on schedule.

Mrs Dodson: I'd be glad to get home. I have to go to the council meeting tonight, and prepare for that at home.

Thank you for this opportunity to speak to you of our concerns about Bill 20. I represent the Niagara-on-the-Lake Conservancy, a citizens' group with approximately 650 members, most of whom live in Niagara-on-the-Lake. Our mandate is to preserve our town's rich heritage. We have grave concerns about the effects of Bill 20 on our town and on our heritage.

1200

First, the description of Bill 20 is contradictory. It's called "An Act to promote economic growth and protect the environment by streamlining the land use planning and development system" etc. One does not protect the environment by speeding up development, by permitting a farm retirement lot, a surplus on-farm residence and infilling between existing homes on prime agricultural land, including tender fruit lands; by allowing expansion into prime agricultural areas "where there are no reasonable alternatives which avoid prime agricultural areas"; by going back to permitting—endorsing, really—urban sprawl; and by allowing municipalities to pay little

attention to provincial policies and guidelines such as those which are supposed to protect such places as natural heritage sites like ravines and marshes.

Bill 20 says that municipalities need only "have regard to" provincial policies, and my Shorter Oxford Dictionary indicates that this could mean "glance at," "look at," "refer to" etc, rather than Bill 163's "be consistent with," a firm statement assuring a high measure of compliance and consistency in the municipality and throughout the province.

Town planning cannot be looked at in isolation. Preserving our fragile heritage in old-town Niagara-on-the-Lake—and I must stress that our deep concern is with this small area of old-town Niagara-on-the-Lake, although naturally we're concerned about our whole town—of buildings, open spaces, streetscapes, rural town atmosphere etc is difficult enough under the existing Planning Act with its requirement that decisions be "consistent with" its sound provincial policies, because that act of course also, as you know, sets specific guidelines for times for planning decisions.

Under pressure from individuals and developers, we lose our heritage bit by bit: a demolition here; a historic house moved to make way for a nondescript building; a rezoning to permit what we call "commercial creep" into a residential zone; the sale of a town-owned waterfront lot on which a monster house is built despite town policy that the town will, wherever possible, acquire waterfront property for public use. Giving more local control over development to local governments creates more development, since local developers can put much pressure on councils whereas the province is at arm's length and less subject to such pressures, and Bill 20 hands over such control.

More development may create some jobs, short-term ones, but it is becoming increasingly clear that more development also costs the community, and hence the taxpayers, more money. Intensification requires perhaps more soft services, and urban sprawl more hard services.

Streamlining the land use planning and development system means speeding up development. Bill 20 reduces time requirements of 30 days to 20, cancels the requirement for public meetings in some planning matters, and reduces the number of times notices are to be published in local papers. And this speeding up has other very serious implications. There will not be enough time for ministries and agencies to report their concerns and requirements, ministries as important as Agriculture and Food and the Ministry of Environment and Energy. The Ministry of Natural Resources and the conservation authority—should it still be in existence—will not be able to make a thorough investigation. These ministries and agencies are also being shredded. Layoffs of employees are reducing staffs to the point that they cannot do the necessary work.

The previous government was able to involve all ministries in planning matters in a cooperative fashion. These ministries could appeal decisions to the Ontario Municipal Board where deemed appropriate. Bill 20 stops all that. Only the Minister of Municipal Affairs and Housing can ask for such a referral. We have to ask, why?

We have another very important heritage resource in Niagara-on-the-Lake, that is, our prime agricultural land, along with our unique micro-climate which creates a longer growing season than exists, for example, south of the escarpment. The Conservative government's decision not to pursue the agricultural easements which the previous government had negotiated with the farm community puts great strain on often hard-pressed farmers to sell to developers who often knock on the door. Bill 20 does very little, if anything, to protect that most vital resource. We felt that great progress was being made and that a solution had been found, and that was of course largely due to the hard work of PALS, but this government has failed to deliver.

We are working very hard on a new official plan for our town, and in Bill 20 we see that the minister may allow municipalities to be exempt from having the plan approved by MMAH. This will also apply to official plan amendments. I may not quite understand this part too well, so forgive me for my inexperience and if I'm not quite right here. Surely an official plan should be consistent with provincial policy or else planning decisions will vary widely within the province.

Bill 163 also allowed the province authority to say what should be in an official plan, but that requirement has been done away with in Bill 20. We are very concerned about our environment, our creeks, our river and our lake. We also have extensive wetlands and a beautiful common. We have parks and conservation areas. We feel that Bill 20 threatens to water down environmental protection for such treasured natural resources.

I have said that Bill 20 speeds up development and creates much pressure on municipalities to develop. Development is fine if it is appropriate to the neighbourhood and does not destroy a people's heritage, but the recent cut in transfer payments will put even greater pressure on municipalities to develop, in the belief that such activity will make up for shortfalls. Our council has such a belief. One of our alderman said recently that he wanted to see the shovels going into the ground as quickly as possible. By the way, I think we have 20 development proposals in the works in Niagara-on-the-Lake, from a 1,700-unit subdivision called Niagara on the Green, to a huge apartment complex on the Niagara River. All of these are in the works, so we are certainly doing our bit as far as development goes. With the flabby aspects of Bill 20 and its shortened time frame, and with developers champing at the bit, we are under a great threat.

Michael Kirkland, a Toronto architect, said something about municipal councils which applies to all levels of government, when he said that instead of looking at their constituency as a commonwealth, elected officials see it as a Monopoly game board. To quote Mr Kirkland, the players in this "sordid game" are municipal councils, who have lost the idea of stewardship that once came with being a city father; architects, some of whom believe they are just part of the industrial apparatus—they find out what somebody wants and get out there and do it; planners, who have no sense of the physical world and who are all about process—they don't care where you're going, they just care how you get there; and finally, there

are the developers, who play the game with their benign or even self-congratulatory language. In their arguments, they use words such as "free markets," "choice," "economic stimulus," "progressive," "modern," "popular" and "feasible." "Feasibility" implies that what they do is feasible and what you want them to do is unfeasible. They want to turn the environment into a commodity. They should be asked: "What are you contributing to the town, not economically, but culturally, physically, in terms of the idea of the town? What are you giving us? Why should we want you here?"

A good planning act is a mark of good stewardship on the part of the provincial government. We believe that Bill 163 has such a quality about it, although it has not had sufficient time to be tested. Certainly the months of wide and intense consultation indicated the government's attempts to be good stewards of the commonwealth which is Ontario. We believe that Bill 20, in its frenzied revamping and deleting of good planning principles, fails on many fronts. Its effects, we fear, will be chaos in planning within the province. Thank you.

1210

Mr Bradley: Thank you very much for your well-thought-out presentation today. The first question I have for you is in regard to the agricultural land itself. There is a proposal—and this is in the field of planning. That's why I'm concerned about the Planning Act changes. There is a proposal for what are called economic severances. We recognize that farmers in the Niagara region are having a difficult time because of many challenges they face, and all of us would be supportive of them. Some of the farmers are seeking what are called "economic severances" so they can continue for at least a short time, with the hope they will be able to make a comeback. So far, by the way, the provincial government has resisted this proposal. What do you think the consequences would be of the Minister of Agriculture, Food and Rural Affairs approving the proposal for economic severances in the Niagara region?

Mrs Dodson: I think consultation with farmers should take place. I live in the farm area, in among the farms. I have seen at first hand the devastation farmers have suffered as a result of severe weather conditions and so on. I have deep sympathy for the farmers. I'm also aware, of course, that there are farmers who also work and are part-time farmers, who seem to want to balance both sides.

I would perhaps have to defer to PALS to answer that question. I really haven't enough expertise. I would be sympathetic to the farmers' requests as long as it were just a one-time thing, but I can see that it could be abused if not very carefully looked into as far as the farmers' economic situation were concerned. Maybe if he opened his books or something—

Mr Bradley: What is attractive about the Niagara Peninsula, in many cases, is its rural nature. Despite the fact that there has been some considerable development taking place, there is the rural nature: the conservation areas, the Niagara Escarpment itself, which is quite unique, recognized by the United Nations as having special significance. Do you believe that the Niagara peninsula would be as attractive to tourists and to those

who reside there if indeed we were to allow considerably more development to take place across the Niagara region, or would it lose its uniqueness?

Mrs Dodson: It certainly would lose its uniqueness. I'm old enough—much older than you, Mr Bradley—to remember having been born in Hamilton in the days when, as a child, I was driven in the old car down Highway 8 to Cherry Beach or Stoney Beach, down these long roads to the lake through this magnificent farm land. I also was working for the Bell at the time that the Queen Elizabeth was being put through, the later stages of it, and drove through, only to be horrified by what was happening: every now and then some lovely orchards, but for the most part, development all along the highway. People are yearning for peace and quiet and beauty, and you certainly don't find it with industrial and housing developments all along a major highway where there were wonderful farms at one time.

Mr Bradley: I think I drew this conclusion from your presentation, but is it your view that the transferring of more authority to local authorities would mean that local authorities would be more easily influenced by development proposals, particularly in difficult economic times, than would a more neutral, objective provincial authority?

Mrs Dodson: In our particular case, that is doubtless true. In our small community, people go to the same church as the mayor and some of the councillors and attend the same social functions and so on. We have a very small social community, as it were. We are very disturbed at our local councils, the fact that they are there. We are trying to do something about this at the OMB. We are in hearings on a possible ward system to, we hope, correct a block vote, which we cannot seem to overcome—tremendous influence on members of our council, I'm sure inadvertent in many cases, but it's there.

Whenever I go to see the mayor—well, I don't go to see him very often, but the staff in the town, a developer is there chatting him up, taking him out for lunch and so on. That's all right, but as a member of the conservancy, I worry about that because of the implications it could have and I believe has had on planning in our town.

Mr Christopherson: Thank you very much, Mrs Dodson. I enjoyed your presentation very much and agree with all the points you've raised. On the first page you talk about what you found "have regard to" to mean in terms of looking it up in the dictionary and seeing "glance at, look at, refer to." In fact, in one community a group came forward to say that they thought this was akin to a rule that you had to have regard to the speed limit signs on the highway, and as long as you glanced at them and read them, you could then proceed to drive as fast as you pleased. I thought that was an excellent suggestion of what's going to happen here, also given the fact that the government is putting forward these major changes and making reference to policies that aren't even finalized yet.

It's my sense that an objective review of this would clearly lead one to believe the provincial government wants out of the planning business as much as possible. They've left a few of these little threads in there so they've got some defensive ground, but the reality is that

they're getting out of the business of making sure that there's a consistent, effective planning policy across the province of Ontario, in my opinion. Your thoughts on that would be appreciated.

Second, you're hearing from the government members, if not today, then in earlier questioning or following this one, that the whole idea is to give a flexibility to local municipalities because they understand the local condition much more than does the bureaucracy at Queen's Park, therefore it makes good sense that they should be severing these kinds of ties. I wouldn't mind your thoughts on why you obviously don't think that is the most effective way to be planning the land use in this province.

Mrs Dodson: I guess I've always believed that higher levels of government, upper levels, were a marvellous protection for the general populace if a local government was not acting too responsibly. For example, the OMB process has been, in Niagara-on-the-Lake, a very important vehicle for us, and we can refer to it as another level of government, because we have been able to do certain things that threaten very definitely the shore of the Niagara River; and we're still fighting that one of a huge Canada Square development plunked below our fort—between the two forts—so I believe that higher levels of government can afford for the average person a sort of second level of protection where the local group fails in its responsibilities.

The other point about the province trying to get out of the planning, it does seem to be that way, and that would concern me greatly, because I can see great inequities between municipalities and so on depending on the concern that these people have for following guidelines and principles of the provincial government. That would worry me very much.

1220

Mrs Lillian Ross (Hamilton West): Good morning. First you made the comment that you had to get back to make a presentation to council, so I thought maybe you were a council member. Obviously, that's not the case.

One of the questions going through my mind—this is my first day to sit on this bill. I'm a little concerned by your comments on the bottom of page 3, where you talk about elected officials seeing it as a Monopoly game board, that "the players in this sordid game are municipal councils." I wanted to talk to you a little about that. Do you not believe that people who are elected are most responsible to the people who elected them?

Mrs Dodson: Responsible? Of course we can re-elect them or put them out of office when the next election comes along. I don't know about "responsible." I suppose "responsive" maybe is more a question than "responsible"—responsive to listening to what their constituents have to say to the needs.

Mrs Ross: To the needs of the community.

Mrs Dodson: I think that's where our problem lies more than in their being irresponsible. The answer I get, as I think I hear from this government all the time, is, "You elected us to do a job and we're doing it." What we're saying is that you're not God. You don't know everything. Keep your ears open and we'd like to confer with you about things. We find in our community that is

not a very easy thing to do even though we have tried, and do try, many times.

Mrs Ross: Mrs Dodson, I'm sure you'll agree with me that Ontario is a huge province and that the needs of the community vary from Elliot Lake, Hamilton, Toronto, so wouldn't you agree that those people living in their community, working in their community, elected by the people in their community have the ear to the community and know their community better than somebody sitting in an ivory tower in Toronto?

Mrs Dodson: The ivory tower in Toronto—maybe I can answer your question by saying that our group actually proposed legislation to the last government to ask to be a special planning area. I think perhaps this is one of our problems, that there's great diversity, as you've said, among the communities. We happen to live in this very historic town, and you know how easily these historic towns become something else because developers gravitate to them, it's a nice address to have and you've got two million, three million tourists coming and going all year.

We found even the Planning Act to be insufficient to handle our requirements in the heritage area and we asked for special planning. The argument was, "You're going to have somebody up there in an ivory tower, maybe not even wired for sound, who is going to deal with the planning." But we had an arrangement; we felt we had a plan whereby members of the provincial government who are also elected by us would be sitting on a council with elected local members and community members to overlook the planning of important developments in the community. So I don't see this sort of ivory tower situation.

For example, my MPP lives on the farm just around the corner from me, so I have ready access to him if I want to speak to him. I'm fortunate that way. Our last MPP, Christel Haeck, was extremely approachable. She was simply wonderful in talking to us, listening to us all. So we had a very good rapport with the provincial government, I guess, better than I ever thought was possible, and I hope we continue that through Mr Froese, our local member.

I don't know whether I've answered your question.

Mrs Ross: Being married to a municipal politician and knowing how much he cares for his community and how he takes into consideration not just development but the environment, the needs of the community, it struck me as I guess a little bit harsh that you have this strong feeling that municipal councillors do not take into consideration, and it kind of makes it sound like—I don't know; do you understand what I'm trying to say here?

Mrs Dodson: I know, and I read about your husband. I read the Spectator every day because I'm a Hamilton person. I don't know whether I taught your husband or not—I might have—at high school. Anyhow, we have two members of our council who are extremely public-minded and who are new. All our other members have been there for ages. Our two new members are very approachable and so on; I am merely quoting Michael Kirkland, who spoke to us a couple of years ago about new planning and so on who said this. I don't believe that's true by any means of all politicians, but it's

certainly true of quite a few I know, I have to say—not Mr Ross.

The Chair: Thank you very much, Mrs Dodson, for taking the time to make a presentation and for filling in this slot for us.

With that, the committee stands recessed until 1:30.

The committee recessed from 1226 to 1334.

CONSERVER SOCIETY OF HAMILTON AND DISTRICT

The Chair: We welcome the Conserver Society of Hamilton and District. Mr Hutton, I assume.

Mr Peter Hutton: Yes, I'm the president of the Conserver Society of Hamilton and District. I thank you for the committee's indulgence in rearranging the schedule slightly because of timing problems I experienced this morning. My presentation will be fairly brief, so I do hope that I will have a chance to get into a little bit more dialogue with members of the committee maybe than you've had with some other presentations. I believe the clerk of the committee has distributed a copy of the presentation on your desks. It is headed with today's date and, "Brief to the resources development committee" etc.

I must admit that I had to debate for some time with myself about the worth of spending this time with you today. I will give you some personal reflections at the end of the presentation about that.

I am speaking today on behalf of the Conserver Society of Hamilton and District, which is a voluntary citizens' organization with approximately 200 members spread across the Hamilton-Wentworth region, Burlington, Oakville and Grimsby. We are all volunteer; we don't pretend to be experts. Why I'm here today is to try to share some of our experiences and share some of our thoughts based on things that we have read about Bill 20 and the proposed amendments. The conserver society has existed since 1983 under its current name and traces its roots back to 1969 when its predecessor organization, Clear Hamilton of Pollution, was founded in this city.

The society seeks to promote education, research, fundraising and action on environmental issues in this area. There are two areas of emphasis: (1) to encourage individuals to take action to change their lifestyle to one that is more environmentally friendly and sustainable; and (2) to encourage local government to make positive decisions to support a more sustainable local economy and society.

To that end, we operate in a decentralized fashion through a series of local committees or chapters located in various parts of the region. The society is one of several citizen-based organizations working to promote environmental concerns in this region. Part of the dialogue that we have had has been with individuals in some of those other organizations you'll see listed on the brief.

Our interest in planning and provincial legislation concerning these matters comes from our local experiences working to protect natural areas in the region and to promote the vision of sustainability that the region has adopted. I'll say more about our local experiences in a moment.

Through the networks of citizens concerned about the environment in Ontario, our members participated in the three-year process that led to Bill 163, the planning legislation passed by the previous government. A great deal of time, energy and funds were allocated by all concerned to make that process work. Through that process, which involved all sectors of the community, we feel that we ultimately got a document and legislation all parties in the community could live with. No one got everything they wanted. No one wants to have to revisit the expense that was involved in developing that document.

That's why we as an organization take the position at this point that the existing legislation does not cause undue or overly restrictive limits on what we see is sustainable development and feel that it deserves to be given a chance to be put into use over time and adjusted as necessary. In that sense, we question the need for any of the amendments that are being proposed in Bill 20 at this time.

That of course is not reality and that is not the situation we face. In fact, we see three areas of changes that we do need to respond to and that we feel will recreate more confrontational situations and lessen the capacity to resolve decisions in the planning process through mediation and other means. I'll speak to three issues that we see specifically.

In Hamilton-Wentworth we have a document that was developed over a number of years called Vision 2020. That document, like the Bill 163 Planning Act process, was developed through intensive discussion, debate and compromise by community volunteers from all sectors: industry, business, community groups, elected officials, administrators, community social service organizations and so on. Much of that document has been incorporated into the official plan of this region. One of its most important provisions for us in terms of planning a sustainable future are provisions that limit the progress of urban sprawl to existing rural Hamilton areas and urban boundaries within this Hamilton-Wentworth region. Anything that damages the ability to build the Vision 2020 of the region in terms of limiting urban sprawl we see as being a black eye not only for us here in this community in Ontario but internationally as well, given the region's involvement in the UN model community for sustainability program.

1340

The amendments concerning eliminating urban sprawl mentioned above would do just—Oops, what am I doing here? This is not my day. I think I skipped a page or a page got out of order. I'm sorry. Yes, I've got it, so this now makes sense. I'm reading from the top of page 3 of the brief.

There are three sections of changes within the act that we see as a problem:

(1) The lack of an enforceable framework of provincial policies will recreate the situation where people in local communities will be forced into long and involved hearings where interpretations of local and provincial planning decisions will be debated. This will be extremely costly to all parties. We don't see that it makes fiscal sense; not in our view.

(2) We are deeply concerned that Bill 20 will limit municipal powers to control the spread and pace of development. It does this in several ways, as we understand it. It removes legislative authority for a municipality to refuse approval of an official plan or development if supporting infrastructure is not in place. It also reverses progressive decisions of the previous government to encourage intensification of development through multi-unit dwellings, or the creation of apartments in existing housing, all of which are developments that support more sustainable municipalities through better use of existing infrastructure.

(3) The bill reduces a number of provisions for review of planning decisions, such as that required for an official plan from 150 to 90 days or the weakening of the requirement for public meetings on plans of subdivision. For our group, this concerns us because of the pressure that will put on legitimate citizen input and the ability to resolve conflicts before they turn into long and costly OMB hearings. We are great believers in the concept of mediation and have hopes that it will be used more frequently to resolve disputes over new and revised developments. Limits on access to information and participation, and the time to respond to individual interests, will re-create more confrontational situations and lessen the capacity to resolve decisions through a mediated process.

I'm returning to speak to the three specific issues. I spoke to you about the Vision 2020 document.

A second issue that has recently come to my attention concerns the provision of development charges in this very region. Large additional fee increases are being proposed by the region in its upcoming budget. For example, \$10 or more will be added to the water and sewer rate to cover a shortfall in the financing charges for previous infrastructure development in this area. Simply put, the region has a lot of empty, already serviced land for which the development charges to pay the interest costs are not being received. New development is not happening. While a onetime charge which increases the base of the sewer rate, which they hope won't have to be repeated, is going to be put in place, it disturbs us that it has to happen at all. With the provisions of Bill 20, the region, which has adopted a policy of curtailing new infrastructure expenditures in order to put its fiscal house in order, will be opened up to pressure from developers with land beyond the range of that existing infrastructure through challenges to the municipality at the OMB level. Again, we don't think that makes fiscal sense. Here's also another example: the cost of sprawl and how it impacts local tax rates through hidden subsidies to development.

A third issue concerns our organization's recent experience with the Ontario Municipal Board process in Dundas, Ontario. I raise it to indicate that we have some experience with the difficulties of the planning process. The issue concerned a rural area in Dundas known as the Pleasantview neighbourhood. It's the last open rural area inside that town, which has been in a special planning area for a number of years because of the policies of the so-called parkway belt west plan related to the Niagara Escarpment.

To make a long story short, the Conservator Society appealed a proposal for development in the area and won our point when we were able to show that provincial and municipal officials were not aware of the full implication of the special regulations governing the area. While admittedly a complicated area of policy and regulation, it does illustrate the problem of the old situation, which amendments in Bill 20 will bring to us again, where officials and developers will only have to "have regard to" provincial policies and regulations rather than the current "be consistent with." More multi-year processes before the OMB and other tribunals will take place as citizens try to stake out their legitimate rights within the development process. Citizens do care about what happens in their communities.

I would also like to mention that the conservers practised what we preach in that situation. Arguing successfully, we convinced all the parties to come to the table for several sessions of mediation, which were ultimately cut short by the municipality before they reached success. There were possibilities where the process could have come to an agreement over a process of development in the area that all parties could accept. Creative solutions were in process. Instead, we were forced into a traditional adversarial process which ultimately resulted in the decision to reverse all but the very minimal amount of development. The decision is under appeal.

I guess what I'm trying to say with this particular example is essentially that any kind of process which is confrontational, such as what I think we'll be going back to, doesn't allow for a negotiated process. We ended up in a situation where we could have lived with some development in this area, and it ended up that we got all we wanted and the developers didn't get anything they wanted. We're not sure that's a situation that is healthy in the long run—winners and losers rather than everybody having a stake in the ultimate decision.

In conclusion, some personal comments, and I think these comments reflect some things that I've heard within my organization and the trepidation about coming here today. We're not experts on these things. We hear a lot of things that have been happening and we hear rumours that indicate that some decisions about how this is all going to go are already made. We hope that's not the case. We hope we're not wasting our time expressing our opinions here today.

I do hope that all members of this committee will in fact be able to get this brief and all other briefs and be able to consider them. I guess I would reiterate again our point that at this point in time we don't see the need for Bill 20. We think the existing Planning Act should be allowed to demonstrate whether it will be able to function in the interests of all the people of Ontario as it was originally negotiated to do. Thanks.

Mr Christopherson: Thank you very much, Peter. We appreciate your submission. You mentioned at the end your trepidation at coming forward for fear that things have already been set and decided ahead of time. I would again, as I have earlier, point out that this government has a track record of rushing things through and not

seeming to want to give adequate opportunity for people to have input.

We know how long it took for Bill 163 to come about. We compare that with what's happening here with Bill 20; also just recently with Bill 7, the new anti-worker labour legislation which was rammed through the House with no public hearings; the omnibus Bill 26, where Alvin Curling literally had to hijack the House in order to allow some nominal amount of public hearings. This is consistent with that.

I do not deem any of this to be rhetoric. I think the track record of the government speaks for itself. So I think your trepidation is well placed. This government does the very minimum possible in terms of public input and just rams things through as quickly as it can. They're not interested in listening to everyone; they're more interested in having their ideology etched in legislation.

I want to now turn to your comments about "have regard to" and "be consistent with," because I think this is the key to unlock the entire approach this government is taking to planning in the province of Ontario. It seems to me that it makes a great deal of sense—and on this I'll ask your comment—that where you have a policy set in place that's meant to be province-wide, and you have legislation that says to municipalities, "You have to make decisions that are consistent with this broad policy," clearly that's a provincial government that wants to have a say and recognizes their responsibility to planning across the province. I would submit that where we don't even have the new policy in place yet, and language that now reverts back to "have regard to," clearly this is a government that does not want to take up their responsibilities for planning, and under the guise of local decisions, are backing away from any responsibility they may have. Do you think I'm being overly harsh in that criticism or do you see it similarly?

Mr Hutton: I see it somewhat similarly. I think the view that we take, and what I'm trying to express, is that within the range of individual local community decisions there are broader interests that could be lost, and the province has a role to be safeguarding those. I think that's what the previous government was trying to do in terms of identifying ways to set policies in place that are in the interests of all of the people of the province but may not necessarily be in the interests of any one individual municipality.

1350

I think of the concepts like protecting particular natural areas, where there may be an economic interest to develop a particular area for a particular municipality, but broader provincial interest in terms of that development says that a different kind of direction should take place. I think that's the kind of framework that you need. I don't necessarily disagree that you should have as much of the decision-making taking place at the local level within a context that says: "These are the general rules of the game. These are the rules that sort of make things equitable for all parties to the decision." I think that's one of the problems that we've had in the past, that without that framework you get more disputes at the local level because it's all a matter of interpretation.

Mr Gary Carr (Oakville South): Thank you very much for your presentation. I had a question relating to a little bit about—and I think everybody agrees in what you said on the last page about the adversarial process. As you know, much has been made of the policies and what will happen in that regard—and that's a big "if." What we do in terms of the policy area are some of the things that are acceptable to you. That, in conjunction with Bill 20, do you think it's something—because that's a big part of it—that your organization could support? If in fact we get that right in conjunction with Bill 20, can we still make it work, in your eyes?

Mr Hutton: I don't believe so. I believe the track record of the past 30 years in Ontario is lots of different policies, but if there's not a way to make a fairly narrow range of policies absolutely stick and have those negotiated out, then we're in trouble. I'll reference exactly the OMB situation in Dundas that I mention in the brief.

Everybody involved in that process was stumbling over policy document after policy document after policy document with lots of different contradictions in them. In a situation with particularly "with regard to" versus a "consistent with" clause in Bill 20, I think you open yourself up to a situation of continuing problems around that area. So in that sense I can't see it.

I know that there are drafts of the policy statement which are out for review, but I haven't had a chance to personally review them and I might qualify that after doing that, but at this point that's my answer.

Mr Carr: With regard to some of the local authority—and you've been actively involved—the thrust is to try to let people in local areas—and I admit at the back there you said you've had some problems regarding that process, although, having said that, the process is there to get involved and to elect people from your organization on to the councils and so on. Are you a big believer, though, that a big part of the voice should be in the local communities, notwithstanding the fact you may have had some problems in some of these circumstances? Isn't, as a general principle, local authority a lot better off than trying to impose things from Queen's Park?

Mr Hutton: Yes, I would agree that imposing anything ultimately has its problems and ultimately decision-making at the local community level is best. In the ideal, that's one thing. In the practical, that's another. This region is going through that kind of decision-making right now about what's best. Local decision-making: Is that the local decision-making at the neighbourhood level, the local council within our regional structure or the regional structure? Ultimately, where does it all end? I don't know.

What I think you do need is an open enough process to allow as many people as possible and as many different sectors as possible to agree on frameworks that will regulate activity, ultimately.

Mr Bradley: You expressed a concern, sir, to begin with that the government may not listen to the representations which are made. Just on making representations to the government, I might have a recommendation for you that could be helpful. You should never say that you agree with something the previous government did, because these people think the previous government was

evil and that virtually everything they did was incorrect, so the best way to make the approach is to pretend you're neutral at least. You may find that is the case.

Do you believe that—there's a different philosophy that emerges here on who owns what and I respect, certainly, all points of view on the committee in this regard, but do you believe that the natural assets that we have in the province such as the Niagara Escarpment, I use as an example, prime agricultural land, certain conservation areas indeed should be for the entire province and should have some ownership by all of us who are in the province and not simply be controlled by those who are either adjacent to or have a direct financial interest in that natural asset?

Mr Hutton: I would agree basically with that statement. I would probably personally and I think many of the members of our group would even take it in a much broader context, that those are assets not only for the province of Ontario but for the people of the entire Earth. But yes, essentially I agree with your statement, and that's one of the reasons why provincial policies I think would be needed.

Mr Bradley: One of the hearts, I guess, because it has more than one heart, in this legislation is the change from "consistent with" to "have regard to." Would you feel a bit more at ease with the change to "have regard to" if you had seen or if we all were to see in the province the policy statements in their final form before that change is made?

Mr Hutton: Speaking personally, I think I might. I think I would still have to return to an earlier comment that from a legal perspective, and having had some experience in terms of trying to deal with these issues from a legal perspective in working through an OMB hearing recently, I still would have some worry about that particular use of language that's being proposed.

There may well be another alternative out there that is not the "be consistent with" or "have regard to." I'm not a sufficiently legal enough mind to know what would accomplish the objective of making sure that basically there's policy out there that is clear, that will have a need for a minimum of interpretation, so that everybody can basically get on with the job of doing and playing the role within the process that they need to play, whether that's a developer who's seeking to do a proposal, he's got clear guidelines: "This is what I can do; this is what I can't do. I'm not going to spend all this amount of time fudging around trying to figure out how I can do my proposal to infringe a little bit on this wetland or that one. This is what I can and can't do."

Make the options clear and that way I think there will be a lot more room for mediation and coming to agreement of people within communities around how their communities develop.

The Chair: Thank you, Mr Hutton, for taking the time to make a presentation before us here today.

PRESERVE ESTABLISHED NEIGHBOURHOODS SOCIETY

The Chair: Our next presentation will be from PENS. Good afternoon to you both.

Mrs Gail Benjafield: I'm very nervous. I must tell you I've never done this before. I'm quite intimidated by the suits around the table.

Mr Carr: We're all friends here.

Mrs Benjafield: Yes, right.

I'd like to introduce myself and tell you that I will be doing the first part of this submission, and allow Dr Steve Balz to do the second part.

Just a little answer about what PENS is. We developed a group about five years ago and it's a very active and well-known group in St Catharines, Ontario. Its original name was Preserve Established Neighbourhoods Society, but what we've found is we have become more of a group that works with local governments to help educate the public as to how local governments work.

1400

Our comments regarding Bill 20:

PENS is a volunteer community group, which works together to facilitate and enhance communications between the citizens of St Catharines and local government. Attached is a copy of our mission statement and objectives. Over the past five years, we have provided information and assistance to individuals and other groups regarding the procedures of municipal governments as well as making suggestions to improve the accessibility of municipal governments and their boards and commissions to the public. We have been most fortunate to have members of municipal and regional councils attend our meetings and work with us on a regular basis. Underlying our efforts is the belief that government works best when public input is both encouraged and considered.

It is with this belief in mind that we wish to bring the following concerns to the attention of the committee. Our concerns regard the effects of streamlining the planning approval system on the public's ability to participate in the democratic process, as well as the loosening of environmental protection and the increased urban sprawl that will result.

Streamlining: Public meetings: Section 13 of the bill deals with requests to amend an official plan. Specifically, it eliminates the requirement to hold a public meeting if the council or planning board refuses to adopt the amendment. This change to the legislation would create a situation in which an approval authority could debate and make a decision regarding an official plan amendment before a public meeting is held. If the decision is to approve the amendment, then a public meeting would be held after the fact. In the past the Ontario Municipal Board has ruled against decisions that were made prior to a public meeting because they short-circuit the public involvement component of the planning process.

Although we find Bill 20 to lack clarity in this regard, section 29 of the bill appears to remove the authority to require that a public meeting be held in regard to a proposed plan of subdivision in some jurisdictions. PENS believes that a public meeting should be held in all jurisdictions whenever an approval authority makes a decision regarding approval of a draft plan of subdivision.

Public meetings provide the opportunity for individuals who are affected by a proposed plan of subdivision to address the approval authority regarding any concerns they may have. A plan of subdivision addresses such

issues as traffic flow onto adjacent municipal roads, the orientation and location of buildings, including multi-story apartment buildings. In the case of a large subdivision, these issues can have considerable impact on adjacent or nearby land owners, even more so than zoning changes, which still require a public meeting. For example, adjacent property owners may be concerned that the plan of subdivision eliminates the possibility of future development of their own property by restricting access to municipal roads. Others may have suggestions for changes to the plan which may reduce potential conflicts with existing land uses. These changes may be as simple as moving the taller buildings in the proposed plan to a different area of the subdivision or the provision of a pedestrian access to a public park.

It is important that concerned individuals have an opportunity to make their arguments at a public forum before those officials who must make a decision on the matter. The public meeting process provides incentive to all parties to cooperate and resolve as many conflicts as possible before the public meeting, resulting in improved land use planning. By resolving conflicts before a decision is made, the need to appeal decisions to the Ontario Municipal Board is reduced and the corresponding costs of hearings are reduced.

The removal of the requirement for a public meeting in respect of a consent to sever land, that is, section 30, raises similar concerns. The distinction between a consent to sever and a plan of subdivision is not clear and the practice of treating borderline cases as one or the other differs from one municipality to the next. Therefore, the same requirements should apply in either case. Because the decision process must be public, the public meeting requirement is not overly onerous for either the applicant or the approval authority.

Notice of public meeting: Subsections 9(16) and 9(17) of the bill reduce the time required between public notice and the public meeting regarding an official plan as well as the amount of time that the plan is available for public review. The time periods are reduced from 30 days to 20 days. An official plan is an extensive document providing a foundation for long-term land use planning. We would suggest that no less than 90 days are required for adequate opportunity to review a plan, discuss alternatives with municipal staff and prepare for a public meeting. In the case of amendments to an official plan dealing with one specific geographic area covered by the plan, 65 days should be adequate notice. By providing less than adequate notice, the approval authority risks having an increase in poorly informed comment at the public meeting while reducing the level of constructive comments, as well as an increase in the number of appeals to the municipal board, increasing costs to the province.

Under notice of approval, there are three similar things. I'll just read them off as I have them here:

—Subsection 20(7) removes the requirement that notice of the passage of a bylaw given to interested parties include information regarding the last day for filing a notice of appeal.

—Subsections 29(9) and 29(12) remove the requirement that notice of the approval of and changes to a plan

of subdivision include information regarding the last day for filing a notice of appeal.

—Subsections 30(5) and 30(9) remove the same requirement that notice of provisional consent to sever given to interested parties include information regarding the last day for filing a notice of appeal.

One can only imagine that this requirement is being removed in the hope that some individuals will unwittingly file appeals after the appeal period has expired, thereby reducing the number of appeals before the municipal board. This is a very inappropriate action on the part of the government. In a democratic state individuals must be informed of their rights and responsibilities, and the notice of passage of a bylaw or approval of a plan of subdivision is a convenient opportunity to provide just such information. It should be noted that a statement regarding the individual's right to appeal the bylaw remains as a required part of the notice. Why not also specify the last day for appeal?

Similarly, notification of the approval of an official plan or official plan amendment is required to be provided to interested parties having made a request for notification: subsections 9(23) and 9(35). Notification should also include information regarding the right to appeal and the time frame for appeal.

Where a notice of approval is required respecting an official plan, zoning bylaw or plan of subdivision, the notice should include information regarding the proper procedures for filing an appeal. This is essential considering that the procedures differ from one jurisdiction to another depending on the level of government that has been granted approval authority.

Subsection 29(8) removes the requirement to provide notice of approval of draft plans of subdivision to persons who have made written submissions, limiting the provision of notice to those who make a specific written request for notification. It would seem that notification of approval would be a matter of courtesy to those who made either written submissions or oral presentations at a public meeting. Clearly both are interested parties.

Subsection 29(15) grants the municipal board the authority to dismiss an appeal if the appellant made only an oral presentation at the public meeting but not a written submission.

It is unclear why persons who made oral presentations at a public meeting should be required to make a written submission as well as a written request for a notice of approval. It has been our experience that those who sit on the council or committee having approval authority generally appreciate the opportunity to ask questions of those appearing in person to make oral presentations and often give greater weight to oral presentations than written submissions. Some people prefer to communicate orally, in person, and should not be penalized for that preference. Persons making either an oral or written submission should receive notice of approval of draft plans of subdivision and retain the right to appeal to the municipal board.

Under the existing legislation, persons who have made a request to be notified of a decision regarding a plan of subdivision would also be notified of any changes to the condition of the plan of subdivision. Subsection 29(11)

removes this requirement for notification. Again, it would seem that parties who have expressed an interest should be notified. To require that interested parties not only request in writing to be notified of a decision but also request to be notified of changes suggests an attempt to limit public involvement in the planning process through some form of chicanery.

Similar amendments regarding notification of provincial consent to sever are contained in subsections 30(4), 30(8) and 30(13).

1410

Reduction of time frames for appeal: Subsection 9(24) reduces the time frame for appeal of approval of an official plan from 30 days to 20 days. Subsections 29(10) and 29(13) reduce the time frame for appeal of approval of a draft plan of subdivision or changes to a plan of subdivision from 30 days to 20 days. Subsections 30(6) and 30(10) reduce the time frame for appeal of provisional consent to sever land or changes to provisional consent from 30 days to 20 days.

Considering that notice can be given by mail and the 20-day time frame begins when the notices are mailed, this leaves very little time for the recipient to consider the option to appeal, assuming that he or she has received the notice before the appeal period has expired. The recipient may also wish to seek out professional planning advice and legal counsel before making an appeal. The proposed time frames do not permit careful consideration of the appeal. Our advice to anyone facing such a short time frame would be to appeal the matter first and then try to work out the problems with all interested parties. If enough people follow this advice, the result would be an increase to the municipal board's workload and the corresponding cost to the province.

We have frequently heard the argument made by those seeking approval for a development that the approval process is too lengthy and delays the creation of jobs that would be involved in construction of the development. However, it has been our experience that many of these same developments are proposed by land speculators. The site of the proposed development sits idle for years after the approval has been given while the proponent sells the land to some other developer. The development may never be constructed in its originally proposed form, and municipal councils and other interested parties are left without an opportunity to have input into the final version of the development. Frequently, the argument regarding the length of the approval process is used to push through a development plan before others have a chance to carefully examine the plan. We would advise the government not to sacrifice the public involvement component of the planning process for the sake of speeding up the approval time by a few days when the time it takes to receive approval is not the real issue.

Steve will take over at this point.

Mr Steve Balz: Environmental protection and urban sprawl: Provincial policy statements: The policy statements issued in 1994 under section 3 of the Planning Act lay out the guidelines for land use planning in the province, including housing and infrastructure policies, with particular emphasis on requirements dealing with protection of the environment, agricultural lands and

policies regarding natural hazards such as flooding. Bill 20 retains the use of policy statements but changes subsection 3(5) to read:

"In exercising any authority that affects a planning matter, the council of a municipality, a local board, a minister of the crown and a ministry, board, commission or agency of the government, including the municipal board and Ontario Hydro, shall have regard to policy statements issued under subsection (1)."

Previously, the subsection 3(5) required that planning authorities shall "be consistent with" the policies adopted under the act.

Having reviewed the policy statements issued in 1994, we found that they simplified the planning process by providing reasonably clear and consistent guidelines for development. For example, the guidelines regarding provincially significant wetlands provide definitions of wetlands and specific requirements regarding separation of new development from significant wetlands. While we believe the policy statements could be further extended and refined, in their current form they not only provide significant protection for the environment but also ensure consistent application of environmental principles regarding planning matters across the province. Removing the requirement that planning authorities "be consistent with" these policies significantly reduces protection of the environment provided for in the current legislation. The revised policy statements issued in January further reduce protection of the environment, particularly wetlands.

Removing the "be consistent with" requirement also introduces uncertainty into the planning and development process. While many land developers would welcome this opportunity to challenge the policies, they will be the first to claim that the planning process is unfair when they are denied the opportunity to develop a piece of property that they had purchased in the hope of pushing the limits of said policies.

Uncertainty may provide opportunity, but in the long term clear and consistent application of the policy statements will be best for the environment as well as the development industry. Surely there is enough undeveloped and underdeveloped land in Ontario to warrant the protection of environmentally significant features.

Section 16 of the bill states that when considering the need for a five-year review of an official plan, the council "shall have regard to policy statements issued under subsection 3(1)." We would suggest that as part of the official plan review, municipalities should be required to ensure their official plans are consistent with the policy statements for the reasons stated above.

Principle of prematurity: Development of a parcel of land is said to be premature if it is currently lacking in urban services but it is anticipated that the land will one day be suitable for development as urban services are extended to the area and the need to move beyond the current built-up area of a municipality requires expansion of its urban boundaries.

The sections listed in the brief, and I'll spare reading them to you, remove the Ontario Municipal Board's ability to dismiss an appeal without a hearing regarding amendments to an official plan, zoning bylaws, plan of subdivision and consensus to sever.

These amendments to the Planning Act would remove the Ontario Municipal Board's opportunity to reduce its workload and costs to the province by eliminating the need to hold a hearing into a proposal that has been rejected by the approval authority and is clearly premature.

It is important from an environmental and planning perspective to discourage premature development. Allowing premature development of lands on the fringe of urban areas encourages urban sprawl and urban blight. Urban sprawl occurs as urban land uses extend along roadways into the countryside, putting pressure on environmentally sensitive areas and creating conflicts with rural uses such as farming. In the Niagara region, urban sprawl results in a reduction of prime agricultural lands. Urban sprawl also increases the cost of providing urban services to these outlying areas. This increased cost applies to hard services such as sewers, as well as soft services such as policing and education.

Urban blight is the result of an exodus away from the older downtown areas of a city towards the fringes where land is cheap. By permitting premature development of lands on the fringe of the urban area, there is a reduced pressure to redevelop the core areas, which slowly decay as a result.

While the government's goal to streamline the development process is, in principle, a worthwhile endeavour, the consequences of certain changes to the Planning Act may result in poor planning practices. Unfortunately, when poorly planned developments are constructed, they have very long lasting effects on the communities in which they are located. By sacrificing good planning principles in a quick-fix attempt to improve economic growth, the government is exchanging short-term gain for long-term pain.

We have a couple of questions at this point which we'd like to put to the members of the committee and I'll ask them now.

Mr Bradley: Let me answer them.

Mr Balz: The first question, to be fair to the government, I'd like to ask if we are correct in our assumption that the reason for limiting the notice of planning approval and removing the requirement regarding notice of the last day to file an appeal, as well as the shortening of the time frame for appeal, has to do with an attempt to reduce the number of appeals to the Ontario Municipal Board?

Mr Bradley: Yes.

Mr Balz: The second question: How does the government propose to protect environmentally—
Interjections.

Mr Bradley: I assume you'll answer both questions after I finish.

How does the government propose to protect environmentally sensitive areas such as the Niagara Escarpment, significant wetlands such as Martindale Pond in St Catharines, and agricultural lands from development under this new legislation?

Mr Bradley: It doesn't.

Mr Christopherson: They don't.

The Chair: Thank you both. We're 21 minutes into our presentation, leaving three minutes per caucus. We'll start with the government.

1420

Mr Trevor Pettit (Hamilton Mountain): Thank you for your presentation. A couple of questions right off the top: How many people are actually in your group?

Mrs Benjafield: We have a membership of about 20 that meet once a month at city hall in St Catharines, and we have a mailing list of about another 40 and that's throughout the province.

Mr Pettit: How long has your group been in existence?

Mrs Benjafield: Five years.

Mr Pettit: It's pretty clear to me that the municipalities have been asking to become more responsible for local planning decisions. If that power is handed over to them, do you see them abusing this?

Mrs Benjafield: The local governments?

Mr Pettit: Yes.

Mrs Benjafield: I think I'll let Steve try to answer that. He's been more involved with this.

Mr Pettit: I guess what I'm saying is, why would they be any more abusive than someone coming from Toronto?

Mr Balz: Why would the municipality be more abusive?

Mr Pettit: Yes. Don't you think, regardless of region, that they would know better themselves what's best for their community than the Toronto politicians?

Mr Balz: In times of slow economic growth or recession, there's a situation that develops in which municipalities frequently try to compete with each other for development. In those situations a municipality is inclined to, I guess, give as much leeway as possible to developers in order to create a handful of jobs, even if it's only short-term construction jobs. For that reason, I think a province-wide approach would be much more successful in protecting significant areas. As well, there are environmental features which are deemed to be provincially significant, that is, significant to all the people of the province, the Niagara Escarpment being one of them. In fact, it's actually been designated an international biosphere, I believe is the correct term.

Mrs Benjafield: Yes, that's correct.

Mr Balz: So I don't think it's necessarily wise to leave the protection of these features to a municipal government.

Mr Pettit: In regard to the "have regard to" and "be consistent with" clause, I think the week before last there was a group at one of the hearings in Toronto—I think it was the Canadian Bar Association, if I'm not mistaken—that felt the "be consistent with" clause was not really definable. They were obviously pro the "have regard to."

I wonder what your thoughts are on the definability of "be consistent with," and secondly, relative to the environment, why do you feel that the minister or the ministry would not still be held accountable or monitor any changes in that area, even though it may be passed on to the municipalities? What are your concerns there? I get the opinion you think the minister's just going to walk away from it all and toss it aside. Why do you feel that he would do that? Why would he not monitor anything that's of concern to anyone in the province?

Mrs Benjafield: One of the things I believe in is strong provincial policies, and I feel that in the last decade we've seen some very strong environmental policies being discussed by the various governments and put into place. I do feel that unravelling some of that and giving the local municipalities, the local governments, sort of a piecemeal attack at things isn't a good idea. I believe that wetlands and the Niagara Escarpment and all sorts of natural heritage sites should be held in trust for the people of Ontario and that you need to have a provincial policy to define that.

Mr Bradley: My first question relates to a rather interesting statement you make: "Urban blight is the result of an exodus away from the older downtown areas of a city towards the fringes where land is cheap. By permitting premature development of lands on the fringe of the urban area there is a reduced pressure to redevelop the core areas, which slowly decay as a result."

If you walk down virtually any downtown community in Ontario—I don't want to zero in on any one—my own, if you walk down the main street of St Catharines, you see a lot of empty stores and you see this virtually everywhere. Even if you walked out here, there may be some in downtown Hamilton even. One would have to look to see. Do you believe that if this bill passes as it is now, that in fact will accelerate and we will continue to see development of land on the fringes of cities to the detriment of downtown cores?

Mr Balz: Yes. We're not in the business of predicting the future. There are many factors that affect the growth of a city and so on, but certainly that would contribute to that particular problem. Regarding St Catharines, I'm sure Mr Bradley is aware that while we have some empty stores downtown, and we're now making a concerted effort to revitalize the downtown, you also have seen in past years a great deal of construction on the fringes of town, strip malls and so on, obviously commercial activity that could be taking place in the downtown if there were pressure to redevelop instead of sprawl.

Mr Bradley: What do you think would happen to the Niagara Escarpment if the enforcement of the plan was removed from the Niagara Escarpment, it was abolished and it was turned over to local municipalities?

Mr Balz: I can only speak with regard to the Niagara region where I'm familiar with the municipalities in that area. Certainly, I would expect to see some parts of the escarpment developed heavily and others protected by the municipality. It really depends on the municipality you're in and who's on council at that particular time from one year to another.

Mrs Benjafield: I entirely agree with that. I have nothing to add. Yes, the council members drive the municipalities, and yes, it depends on each municipality. In Niagara we have two-tiered government, as you well know, with 12 municipalities under the region and then each municipality. I feel it's a very fractured process.

Mr Christopherson: I particularly liked your answer to the question from Mr Pettit regarding do you see local government being more abusive or being abusive with this authority that's being given them. I also was pleased to see your last sentence as a comment I've been using in other communities across the province, that very much

we're looking at a short-term gain for long-term pain. The two go together clearly because I don't think there's a suggestion at all by anyone that local government—I used to be part of local government—is any less caring about their communities or about the environment. It just makes common sense that they would care.

But there are pressures, and I've been there, particularly during tough economic times, to make short-term decisions at the expense of the environment, at the expense of good planning that you otherwise wouldn't make, because you have that short-term need. While that's fine in and of itself, in the long run that doesn't give us the kind of communities we're entitled to. That's why we moved to put the province in a strong position to defend those things.

I can say too that politically it's easier to be able to say, "Well, we can't do that because the provincial policy prevents us," and I can tell you there are many politicians who are pleased that's in there because when you've got a room with 200 or 300 people, it's very difficult to not go with the immediate pressure that's in front of you, and so the long-range responsibilities become the part of the senior level of government.

My question to you would be, in terms of the linkage with moving to "having regard to," away from "consistent with," do you see a deterioration of good planning in our communities as a result of this, because the government would offer up the exact opposite?

Mrs Benjafield: The term "in regard to" for me is an unfortunate phrase because it just means that I can say, "Yes, I have regard to this submission and I've heard it today and that's it." I feel that is not my submission, anyone's submission or any proposal. "In regard to" just means you just have looked at it and it has no teeth to it at all.

Mr Balz: If I could just follow up on the comment regarding short term and long term, clearly land use planning is something that needs to be looked at with a long-term perspective. That's why they call it planning.

The Chair: Thank you both for taking the time to make a presentation and coming to Hamilton here to speak to us today.

1430

ANNE REDISH

The Chair: Our next presentation will be from Ms Anne Redish. Good afternoon. Welcome.

Mrs Anne Redish: My paper says I'm going to begin by telling you something about myself. Not to blow my own trumpet, but since I'm not representing anybody, I felt it was important you should know the interests and background that bring me here today.

I spent eight years as a member of Dundas town council—Dundas is a small town of about 20,000 people slightly west of here—and for three of those years I was the chair of the planning committee; I then spent three years as a member of the committee of adjustment. Second—a slightly different facet—I have for the last 10 years been involved with the Hamilton Region Conservation Authority, sometimes as a member of the authority, sometimes as a member of one of its advisory boards.

Third, as some of you may know, I'm a member of the Niagara Escarpment Commission.

I hope from that you realize I do have experience in both the environmental and the planning fields, but as I said first, I'm speaking for myself and not for any organization. I should also say that I'm not a member of any political party.

As that individual, what would I like to talk about? I want to talk about three things. I want to talk about the environment, the OMB and committees of adjustment.

First, and most importantly, the environment. I believe the protection of the environment should, indeed must, rank as one of the heaviest responsibilities laid on the shoulders of a government. While environmental actions may not have such immediate effects or be as eye-catching as activities involving taxes, hospitals, social services, environmental actions have far-reaching effects that will determine the fate of the citizens of Ontario for generations to come.

I know the pressures that lead to development. I know the benefits that many municipalities believe they will get from development. I know the construction industry is an engine of economic recovery. But I also know the enormous risks we run if we succumb to those pressures indiscriminately. Those risks lie in the loss of the biodiversity of our province on which, ultimately, human life depends.

Our ecosystems, wildlife habitat and native species are not only intrinsically valuable but they provide a genetic diversity of immense importance. Agriculture and scientific research depend on them. Wildlands and the wetlands support industry, such as recreation, tourism, hunting, fishing. Our native species are dependent on the preservation of appropriate habitats, and already far too many, especially in southern Ontario, are on the threatened and endangered lists, and increasing threats of development to wetlands and environmentally sensitive areas can only make the situation worse.

As you've been hearing, the greatest risk to the environment through this proposed act lies in the limited requirement that the development shall "have regard to" the provincial policy statement on matters of provincial interest in land use planning and development. It's so easy to "have regard to" a policy. It's so easy to say: "We regarded it. We even considered it, but of course it didn't really apply in our case." There are conscientious councils who follow the good advice of the policy or even go beyond it, but they're a minority. I'm glad to say our own region of Hamilton-Wentworth, through its Vision 2020 document, which was incorporated into the official plan, has done a very good job, but it's not everybody who's done that.

If this committee is truly concerned with our natural resources, which is your mandate, and with the protection of the environment, which is stated to be one of the purposes of Bill 20, you'll strongly recommend to the minister that the existing wording in Bill 163, in the existing Planning Act, will be retained, the wording which requires that development "be consistent with" provincial policy statements, for it's only by legislating compliance with the policy statement, a legislative re-

quirement of consistency, that we can protect our resources, their "environmental and economic benefits," as the proposed policy statement puts it. That's one subject.

The second one is the OMB and planning. There's a proposal in Bill 20 that the various ministries should no longer have the authority, the right, to appeal to the Ontario Municipal Board but that this should all be done through the Ministry of Municipal Affairs and Housing. The idea is that this will enable the province to speak with one voice before the board, but I don't think that's really a good idea.

It's important that a board should be aware of all aspects of a matter before it, and different ministries are often the best-qualified bodies to present appropriate information in a particular area. Each ministry has its own area of expertise, whether it's Agriculture or Natural Resources or whatever, and may have a legitimate view on a particular issue which doesn't jibe with the views of another ministry. Unless cabinet wishes to resolve all those issues, and obviously cabinet's got better things to do, the OMB is in the best position to decide the matter and the ministries are in the best position to provide the appropriate evidence.

If the Ministry of Municipal Affairs is merely going to act on the advice of a sister ministry and use its personnel to support an appeal, you've got an unnecessary step in the process. On the other hand, if Municipal Affairs is going to be the ministry which decides whether an appeal should occur, it's going to require additional technical staff to make the decision and then present the case. Either way, I think this is a mistaken proposal.

There's another problem in the proviso that an appeal to the Ontario Municipal Board can be dismissed if "an apparent land use planning ground" is not established. That's section 9. It's by no means clear what is meant by this and I can foresee a great deal of litigation being required to clarify this issue. In particular, the question of whether the board can dismiss an appeal because there's a lack of public water or sewage or road services already onsite is apparently open to question. Yet rulings of that nature by the board, saying, "If you haven't got services, then you can't develop there," is one of the strongest protections against urban sprawl, and consequently, it has both economic and environmental benefits.

There's one other comment I'd like to make which sort of falls into this direct planning area, though it's not an OMB one, and that's the question of whether you need a public meeting before approving a subdivision. The previous speaker touched on this rather more eloquently than I do. But she's right that this rides over the interests of a local population, who are often very knowledgeable about a specific site, and even though council approves the subdivision, there are often many good improvements made to the development because of the local input made at that meeting.

1440

The third area I want to talk about is committees of adjustment. I'm concerned with the ruling that decisions of a municipal council acting as a committee of adjustment are final, that there'll be no appeal of their decision. I'm sure the decision is that the OMB doesn't want to be bothered with picayune things like committee of adjust-

ment matters, but I do know that for individual citizens, although it's a small thing, it's a matter of considerable importance, and to refuse the right of appeal really goes against the principles of natural justice. Where there's been a citizen committee of adjustment which is appealed to council, I would still allow an appeal against council's decision. Those of you who come from small municipalities know very well that a small town, a small area, can be riven by something like this, and it's very hard for anybody to get an unbiased decision in those circumstances. For the sake of peace in small communities, I would like to see this still being able to be appealed to the OMB, or even to somebody else, but somebody away from the local municipality.

In general, I can see some good things in this bill. I do think there is a place for shortening some of the time frames. It's a bit of a two-edged sword, but having sat and waited for responses from various people at various times, I do think there's something to be said for shortening responses.

My real concern is that the protection of the environment, which is stated in the title, seems to have got lost. While I understand the minister's wish to give more leeway to municipalities, I fear he's forgotten the attitude that underlies many municipalities' actions. For that reason, I urge you—if you take any notice of anything I've said—to give the strongest weight to my plea to delete the phrase “have regard to” from this bill and allow the requirements of consistency with the provincial policy statement to stand.

I'll repeat what has already been said. Remember that what we do to our environment this year will affect it for 100 years. There's no better example of short-term gain for long-term pain. Thank you for listening to me. I hope, if I have bored you, it's because you've heard the same comments over and over again and that you'll take them to heart.

Mr Bradley: I would like to explore with you the lack of ability of ministries other than Municipal Affairs and Housing to appeal to the OMB. Having some experience in government for some time, I well recall that there was not always a consistent view between various ministries as to proposed developments. It was encouraging to see, in my view—not all my colleagues agreed—various ministries put forward a point of view from that ministry, because that's where the responsibility was: to protect the environment, in the case of the Ministry of the Environment; agricultural land in the case of OMAF; Natural Resources had jurisdiction over such things as conservation areas and so on.

I take it that it is your belief that the process would be enhanced if that opportunity were allowed to continue because of the expertise and commitment that individual ministries have in this field.

Mrs Redish: Yes, that's correct. I'm a lawyer by training, and a solicitor is a member of a court of justice and it's his responsibility to see that all issues are brought before the judge, not necessarily those he thinks will enhance his own case. I think there's a rather parallel situation for the OMB. They need to hear all sides of the question. Even in a single ministry, the Ministry of Natural Resources, on one hand it's concerned with

getting as much aggregate as it can, and on the other hand it's concerned with preserving ANSI as environmental areas. There's a head-on clash. If you get that in one ministry, it's not surprising you get it between different ministries.

Mr Bradley: The other question I have is one which I've asked previously as well. You've had some experience in this regard, both municipally and as a member of the Niagara Escarpment Commission. Do you believe the Niagara Escarpment plan would be consistently and fairly enforced if you turned it over to local municipalities rather than having one commission consistently enforce it?

Mrs Redish: No. I think it's important that there is one enforcement organization, one development permit granting organization, the whole length of the escarpment. Even with goodwill, there can be differing interpretations up and down an area, and the escarpment is so vital to Ontario that a consistent interpretation is essential.

Mr Sean G. Conway (Renfrew North): Thank you, Mrs Redish. I've been very impressed by your brief. Just a couple of quick observations. I really liked your comment about the department of Natural Resources and the fundamental contradiction that rests within it. Unlike many of my colleagues on this committee who've sat on local councils, I never have, but I've been really taken by this rather naïve belief that abounds that in an operation as large as the Ontario government we can legislate a mechanism where there will be one voice for the several often antithetical interests that are to be contained within it. Surely it is a lot to expect that the Pentagon and the State Department are going to speak with one voice on a number of significant issues which come before it. How do we resolve that tension?

Mrs Redish: I think at the major levels, that is cabinet's job to lay down the broad policies. A lower level can be the provincial policy within that cabinet framework.

Mr Conway: A final point, as I'm sure time is running out. You make a very powerful argument for the “shall be consistent with” as opposed to “have regard to.” Have you ever read *Burmese Days* by George Orwell?

Mrs Redish: Not for a long, long time.

Mr Conway: I live in a rural part of Ontario. My point is that while you make a very powerful argument for the “shall be consistent with,” one of the great difficulties some of us have is, how do you then avoid a situation where you, as the agent of empire, are left like George Orwell in Rangoon trying to defend an imperial policy that might have made a lot of sense at Whitehall but looks perfectly ridiculous, not only to you as the imperial agent in Rangoon but to everybody with whom you deal on a daily basis?

Mrs Redish: We're none of perfect and we shall none of us achieve the perfect policy, but I do believe that a policy that is based on sound principles, such as protection of environmentally sensitive lands, will give us the best result in the long run.

1450

Mr Christopherson: Anne, I want to welcome you, and I assure you my comments won't contain a skill-testing question. We'll move straight to the issue.

We've heard, not just today but in numerous communities across the province where I've been part of committee hearings, from groups that are not opposed to development. They understand that there needs to be development as an important part of our economy but have real concerns that the changes being made are tipping the balance away from the environment and our long-term concerns. We're hearing over and over again the phrase "short-term gain for long-term pain." Vis-à-vis that comment, your position on the Niagara Escarpment. Do you see any threat to our Niagara Escarpment as a result of the changes contained in Bill 20?

Mrs Redish: I understand that the proposed policy statement under Bill 20, under the Planning Act, specifically leaves the Niagara Escarpment plan in place in so many words. I suppose because it's a change in thrust throughout the province and a change of attitude, maybe there will be stronger pressures on the commission. I hope the commission will continue to have the fortitude to stand by the plan and see that it is truly enforced.

Mr Christopherson: I'm asking you this question that I don't know the answer to, which normally politicians don't—

Mrs Redish: Nor do lawyers.

Mr Christopherson:—but here goes, let 'er rip: Does the change from "be consistent with" to "have regard to" affect the decision-making process of the commission?

Mrs Redish: No. The commission is bound by the Niagara Escarpment Planning and Development Act and by the Niagara Escarpment plan which, you will recall, went through several years of rehashing and is now in place once again about a year ago.

Mr Christopherson: But it will affect lands that are adjacent to it that are not captured by it, which could have an effect on the overall natural—

Mrs Redish: Yes, on the boundaries.

Mr Galt: Thank you for your thoughtful address. You express yourself very well in your concerns for the environment, and I think you reflect the concerns environmentally around this table. We're all vitally concerned about that, and we struggle with the wording "be consistent with" versus "have regard to." You might be interested to know that the Ontario Federation of Agriculture was here first thing this morning and they agreed with the change to "have regard to." However, last Thursday back in Cobourg, one of their subgroups, the Northumberland Federation of Agriculture, disagreed. They felt it should be "consistent with."

As we wrestle with all of this, whether it's wetlands, whether we're struggling with the Niagara Escarpment, whether it's agricultural land or forest land, it comes down to, who pays? Is it the farmer who should keep it for the rest of the world or Canadians or those in Ontario? Should it be the municipality? Should it be Ontario? Should it be the federal government? What we're really struggling with is, who pays? When you take rights away from people who have wetlands and that buffer zone around it, they're paying for it. Is that right? I think that's really the bottom line of what we're struggling with here. Somebody suffers when you say, "You can't use that land as you originally purchased it for," whether it's a farmer or a land developer or some-

one else who happens to own that land. Who pays? Do you have any answers for that, any suggestions?

Mrs Redish: I don't think you can give a broad, sweeping answer. One of my major personal concerns is the loss of the agricultural lands. I was very pleased, in spite of what you said earlier, Mr Bradley—

Mr Bradley: It's dangerous.

Mrs Redish: I did feel that the recompense the previous government was proposing for farmers was a worthwhile project and one I would have sort of paid for out of my own pocket very happily, because I believe it's very important philosophically that a country be able to feed itself. When you have a very small area of agricultural land, particularly tender fruit land, I think it's very important that be preserved. If the whole community has to pay, it's the whole community that's going to eat that food. That would be one answer anyway.

Mr Galt: So you're saying basically that in some way society should be paying for that, not the land owner?

Mrs Redish: Not only the land owner. There are times, yes.

Mr O'Toole: Thank you very much, Ms Redish. I'm impressed by your credentials. You've spent eight years on council, chair of planning for three years, and now on the Niagara Escarpment Commission, so I'm very much impressed. However, on page 3, you don't have a very high view of councillors.

Mrs Redish: No, that's true.

Mr Galt: That's sort of a contradiction there. That's really where I'm coming from. You really are saying that local councillors, of which you were one, on the escarpment commission, kind of non-elected—are they competent decision-makers? It's a tough one, I know.

Mrs Redish: No. It's a fair enough comment on what I've said. I do have concerns very often about—

Mr O'Toole: Which? At the commission level or the ministry level? They're all people.

Mrs Redish: No. I'm talking about councillors, municipal councillors, who are often driven by very localized pressures—

Mr O'Toole: I would say one comment just to focus a little on what I'm trying to get to. You were chair of planning. Councillors do not write the reports. Councillors tinker with them, if you will; however, they do not write them. They are written by planners of ethical professional training. Are you saying these reports at the local level are incompetent, have no value?

Mrs Redish: No. No, no, no.

Mr O'Toole: They're better at the province, is that it?

Mrs Redish: No. What I'm saying is that the report the staff provides at the municipal level is often excellent and it's often disregarded by a councillor.

Mr O'Toole: And then it would go to the Ontario Municipal Board.

Mrs Redish: At the commission level, again there are excellent reports from the staff. The commission often accepts them, but doesn't always accept them. Occasionally we're soft-hearted. We try not to be. We try and stick to the rules, but just occasionally somebody manages to tell us a very sad story and we succumb, but we know we shouldn't even when we do. I guess it's the same thing at your level. You get good reports, occa-

sionally not so good, no doubt. But you have to make the decisions, and how good you are is how well the province is governed.

The Chair: Thank you, Ms Redish, for taking the time to make a presentation today.

NORFOLK FIELD NATURALISTS

The Chair: Our next presentation will be the Norfolk Field Naturalists. Good afternoon.

Mr Tom Campbell: I'm Tom Campbell. I'm the executive of the Norfolk Field Naturalists. I'm also chair of the Haldimand-Norfolk Round Table on Environment and Economy. I see the need for both sectors, environment and economy, and the societal or the health sector, community sector to work together. Since founding the round table, with strong support from the community, consensus has been the word. I hope I don't become abrasive with some of the comments in here. I certainly am not intending to offend anyone, although I do put some rather interesting comments.

1500

Usually, you start from the beginning, but Premier Harris sort of rattled me a little bit in the sense that I apparently am coming here for no purpose. Just going to the appendix, reading the top there, Premier Harris states—now I know he considers he has a strong agenda, but when you say, "No special-interest groups or lobby will stop us," from our agenda, Mr Harris is certainly a man of convictions and it's sort of a little frightening. This appendix was added afterwards, but it's directly related to the comments as you look at the references there.

There's quite a wide spectrum of resources that I've referred to, everything from economics to futures books: by Jeremy Rifkin and Alvin Toffler and Herman Daly; the Sustainable Communities Resource Package from the Ontario Round Table on Environment and Economy; Steven Wilcox, a university grad who did work on the local area for ecotourism; getting into scientific and political philosophy with *The Structure of Scientific Revolutions*, near the bottom there—that would be interesting to the Common Sense Revolution. It is a social revolution, and when you get into social revolutions you have to be extremely careful, because you're getting into a paradigm shift and you don't know where it's going to lead. Finally, back to my university days, the political philosophy of Jacques Maritain at the University of Toronto.

So I have followed this particular topic of economics, environment and community development for over 30 years as a geography teacher, now retired. So I think you should maybe know where I'm coming from.

Getting to the appendix, we are obviously in a very critical economic situation and I just list down 12 topics there that could be called the dirty dozen, if you wish, but we won't put that in print. Everything has been extremely complicated and fitting together, unfortunately, in a negative manner for us since 1949. I'll just touch on a couple of them. They directly relate upon the second part of our brief, which examines ways in which we can raise local community funds.

Free trade, the branch plant economy, the world recession, everything combined to really wallop the province in the last five years or so, because it just doesn't make any sense to keep an inefficient branch plant up here when there's no tariff wall as one of the important locational factors. Rationalization by head offices and governments across the province, computers and automation, the natural attrition because of the recession, the problem that the urban infrastructure is deteriorating and must be repaired, the environmental crisis that the United Nations and the world's leading scientists are reminding us about, the stock market—it's too good, and let's hope it continues to be good, but the real estate market was too good for a while too, so this could be just another below-the-belt. Then we've got the complications because of Quebec.

In other words, we are living in very critical, difficult times. I appreciate the government's need for restructuring, but am concerned about the supply-side economics, which goes into early economic thinking. It's been tried in the United States with President Reagan and President Bush and continuing, really, with the present President. It doesn't reduce the deficit; the deficit is skyrocketing in the United States.

But there is the perception, and it's a reality, that it does benefit a certain class of people. This is one of the concerns that we have as field naturalists, that as a result of particularly the promise for a 30% tax reduction, this is going to severely hit services and jobs and destroy the things that we think we're proud of in our country. While we're on there, everyone in here owes me money. I'm one of the ones who has bonds, and at 27 cents an hour I'm being repaid—not quite the million. All I'm saying is that there's a wide spectrum of people in the country who own these bonds and my chief concern is the amount of foreign ownership of those bonds. If we can, if possible, borrow as much money locally, then the dividends are spent and repaid in the economy.

I do not wish a tax reduction. If I get a tax reduction, I'll probably just invest it in more GICs, mutuals or something. I don't need it. I'm not going to rush out and buy something because of that. So I just mention that, my own personal observations. Reading in the *Toronto Star* the situation, I believe, in New Jersey, where there's a 30% tax reduction, the people are not going out and buying; they are reinvesting it. If you're a business, certain concessions are going to be helpful. But again, they will go to the banks for their major funding, right?

So I push on these topics a little bit. Just flipping over, I'm certainly not going to read the rest of the brief, but I think this is important because of what Mr Harris said. So I have to convince you that yes, you should seek consensus and that yes, we consider and are very cognizant of the fact that a very serious situation exists in the province. But we are a pluralistic society, as I mentioned. As a pluralistic society, we should all be considered in the solutions of these particular problems.

Locally, to show you that we're not an organization that's knocking, we are interested in the economy. As chair of the round table, I also have the responsibility as sort of the liaison with the field naturalists and I also am a liaison with local economic development groups. I work

with local think tanks and local development groups pushing for community-type development.

Right now, our major project with the round table, and supported by many groups—number 1 under “Supplementary Remarks”—we’re pushing for a marine museum to bring up artefacts, hopefully, from the SS Atlantic. The case is before the courts, so I caution everybody, don’t speak too much about it. One of my former students, Mike Fletcher, and the provincial government are combining, more or less, to gain ownership for Canada against an American company that’s trying to claim the wreck. As I say, we’re pushing for this particular marine museum, which will be a major demand-generating, all-season tourist attraction that will certainly help the local economy.

Likewise, the Norfolk Field Naturalists and the round table and the Haldimand-Norfolk region are pushing for equal tourism. We live in the Long Point area, which has many fine natural resources. Mary Gartshore is the expert on that aspect; you might have questions for her a little later. We believe that some of these natural areas could be threatened by changes in the development act.

Interruption.

Mr Campbell: Does that mean anything?

Mr Bradley: It’s just a cell phone.

Mr Campbell: Oh, okay. I thought it was a warning, “You better stop and give people the chance to question.”

We are interested in the local economy. That was an afterthought, but it’s directly related to everything and I think it lets you know that we are aware of problems.

We are concerned that we’ve spent—how long did we spend, the club, on preparing briefs for the commissions for the last Planning Act?—days and weeks preparing briefs, taking time to come to speak, and then all of a sudden we find that everything is thrown out. This is discouraging—we’re volunteers being paid nothing for this—to see something thrown out before it was given a chance to be tried.

1510

I had a summary for us here. The policy statements that came out from the previous government, last February or so, seemed to make sense. Obviously, not everyone would agree with them. But why weren’t they given a chance to be tried? Why didn’t we work a year or two with “must be consistent with” to see how it worked? I can understand where the farmers are coming from. They say they want the other because they might want a land severance, and it’s always for a father or a son or something like that, but somehow these land severances end up with families with lots of children and garbage that has to be collected, and it’s not always the immediate family that lives in them. But I understand there are economic reasons why they would like a little looser interpretation. But why wasn’t it given a chance, you see?

There are many other statements in there which we won’t go into, but that’s certainly an important one.

On page 2, a concern about not adequately protecting agriculture and wetlands; certainly a concern.

What you don’t want is someone reading pages paragraph by paragraph. Let’s go into part II.

We didn’t have the time to go item by item in the amendments, but we did identify one item in part II.

Since municipalities are now being expected to raise more money locally with the reduction from the federal level and then the transfer reductions from the provincial level, we have to use some ingenious means. Section 7 of the Development Charges Act refers to the lot levies, particularly, and the concept makes sense. A new neighbourhood is being built over here; they’re going to need extra services. The rest of the community has already paid for those services, so it seems logical that the new community pays a good chunk of the new services.

The concern is that rather than having this lot levy fee or development charge fee decided at the local level, it is our perception that the minister will have the final okay on that particular lot levy, if it’s to be increased. Now, if the local community wants to decrease it, that can be decided, evidently, at the local level. Funds are going to be very short, and as field naturalists and conservationists, we’re concerned because we fear that there’s not going to be enough money left to pay for the upkeep of these and that they’re going to be sold off. The local municipalities now have the right, from a previously passed bill, to sell these off, and to whoever has a plan or whoever is willing to buy it and then come up with proposed plans later. So if municipalities can raise more money through lot levies, which can be used for education purposes also, then they won’t have to be increasing taxes across the general spectrum of the population in order to pay for some of these services.

I have followed this topic with particular interest since I live in the Haldimand-Norfolk area and the government does have a public land bank in the sense that the community of Townsend is owned by the province. I hope they haven’t sold it all off yet, but that community is the regional headquarters, and it’s close to Stelco and Nanticoke and the great industrial land down on that south Erie shore. It’s the logical place for growth. If the local people, in their wisdom—local municipality officials—decide to raise money, they could, since the government owns the land—they got it at about \$2,000 an acre—put a good, sizeable, hefty lot levy on there which would still keep the houses competitive with the neighbouring communities. That could go into a heritage fund for education and other community infrastructure, and when it comes time for the threshold to determine when a new school or library has to be built, they could dip into that particular heritage fund and not into the regular taxpayers’ pockets quite as deeply.

You follow the logic; I’m not going to elaborate on that in any more detail. I was one of the ones who proposed this. I strongly proposed the public acquisition of that land, sort of a voice in the wilderness. No one said it would be done, but the government, in its wisdom, decided it would be a good thing. And it still is. It has potential.

I think those are the major points. As a teacher, and as a person who’s sat in on committees such as this on your end, I realize it gets kind of deadly when you get going too long. Anything else I should mention, Mary? Did you want to elaborate on the naturalist’s aspects?

Ms Mary Gartshore: I agree with your point that a lot of us spent a lot of our personal time, backed by the expertise gained from working in the natural heritage

community, but actually giving the time over to developing the data, the expertise data body, and then going and looking at policies and seeing how they mesh with the kind of information that had been collected. I sat on a lot of committees, a lot of municipal meetings, and behind the scenes reading over and dissecting policies. We're working for the people of Ontario too, in our own free time.

I feel it's a bit of a slap in the face, when you've worked all these hours and have watched a policy grow over the years, not just with the NDP government but with previous governments realizing that this has to come down, to see things now go the way they've gone, to lose the possibility of protecting some important natural heritage areas, protecting ecosystems, and not using the expertise and the data and the ability we now have with science to protect areas. That's very regrettable.

Mr Christopherson: Thank you for your presentation. I want to thank you for spending some time setting this issue in a broader context. Unfortunately, with so many things happening in the province right now, there's not nearly the attention being paid to this, in my opinion, that it deserves. That comes through to the greatest degree when we have individuals who come forward from volunteer community agencies and community action involvement, because you have given of yourself and sacrificed your own personal time to care about your community and to give input. In many cases, it's expertise input that otherwise would have to be paid for by the government, and here it is being offered up for free. To see that work being dashed I know is very difficult. I don't mind saying I feel that way myself some days as certain things that I think are important come tumbling down.

It's important that we set this on the broader stage. Indeed, when you add everything up, it would seem there are going to be fewer and fewer people who will have an influential role in the decisions that affect our lives, whether it's the economy, social services, health services or land planning, as we're looking at today.

I would also agree with your submission—and I try to do it dispassionately, although I can't do it entirely—that to have not given 163 a chance when there was so much work trying to reach a general consensus across the province, to merely set that aside and then drop something else in really raises a legitimate question about how much the government wants to listen to differing points of view versus just enacting the things they believe in and assuming June 8 meant they could rule supreme for four years and don't need to talk to anybody else until they decide to go back for a general election.

You raise, in your submission, the issue that I still believe to be the cornerstone of all this, and that's the move from "be consistent with" to "have regard to." Could you embellish a bit, either or both of you, on that particular aspect and why you're so concerned about that?

Ms Gartshore: In the experience I've had with dealing with municipalities, "have regard to" can mean "ignore" or "We don't have to." Mostly what you hear is: "We can make a decision about whether we'll have regard for it or not." "Be consistent with" is a much more powerful tool whereby the proposed development or whatever will have to develop an EIS or environmental plan which does

protect the natural features there; it doesn't always protect it very well. But "be consistent with" implies that there is a protocol that this developer and this developer and the next one will have to follow, whereas "have regard to" could mean your buddy gets off because he knows members on council. I think this is a fairer system, and we've called for it for a long time. "Have regard to" has been tried, and we know it fails.

1520

Mr John R. Baird (Nepean): Thank you very much for your presentation. We appreciate the time you obviously took preparing it and coming here today to discuss it with us.

I want to address my first remarks with respect to your comments at the outset of your statement. I can certainly tell you we're not spending three weeks going to all corners of the province to simply go back and do what we were going to do at the beginning. We're here to listen and hear what people have to say and are certainly prepared to take that back in our discussions. We have two full days in clause-by-clause, and we've heard a number of useful comments and suggestions from presenters around the province. I just wanted to make that clear at the beginning.

With respect to your appendix, you go on about free trade and supply-side economics. To refute what you said, I think there's widespread consensus that free trade has done wonders for the Ontario economy. Even Mr Chrétien and the Liberal Party are big supporters of it now and haven't abrogated it, and if it was doing the devastation, I would assume they would have.

In respect to supply-side economics being tried in the States, a big part of that was capital gains tax reductions, which is trickle-down; that's why we're not proposing that in Ontario. Of course no spending cuts came through the United States, and we recognize there has to be a reduction in public expenditure, and governments across Canada, of all stripes, are following that course. Finally, of course the difference between Ontario and the United States is that the provincial government has no intention of a trillion-dollar military buildup, which also was partly responsible.

Having said that, I have one particular question. On page 4 of your document, the second-last paragraph, you say: "If amended, we are concerned that it would give too much power to the Minister of Municipal Affairs and Housing. There is a concern that developers, by simply stating, 'We will build somewhere else,' could put pressure on local MPPs to recommend to the minister that any development charge should be reduced."

How does this interact in terms of a local council? If a local council were given greater authority in a streamlined process in other areas, many of the presenters have suggested that local councils couldn't be accountable for that type of effort, yet in another area, if it were taken away from the local council and put on to the minister, there's a concern that someone could end-run the process. Is that a contradiction? What are your thoughts on that?

Mr Campbell: Locally, there's one municipality surrounding our municipality that doesn't have lot levies, or if there are, they're very low, and the developer sometimes will go there, but obviously, if there's a

market locally they'll build wherever they can sell a house at a competitive price. But there is a concern that this could be used—I mean, it's a legitimate lobby. There's no insinuation or indication that all this is not something that's legal. This would be a lobby.

If this person happened to be in more favour with the MPP, his lobbying might carry a little more weight, if you can follow the reasoning. I don't want say anything that's going to hurt my cause by getting you people angry at me, but politics being what it is, if you can put legitimate lobbying pressure on someone by saying, "We're not going to pay this \$3,000. It's too much. We'll move someplace else," then this person will say, "We're going to lose this developer," and it could be a bluffing game, and then the minister could say, "Okay, we'll reduce it." Meantime, the municipality loses what it considers a legitimate source of funding. Does that indicate my concern?

Mr Baird: To conclude, because I see my time is up, it's problematic at either level. I think in the end, there's no substitution for public accountability. Albeit from someone with only eight months' experience, certainly the folks on all sides of the House that I've met here in my experience are not a group of corrupt people.

Mr Campbell: No. Corruption is not even—

Mr Baird: At least at the local level there would be a plurality, more than one person to—

Mr Campbell: No, this is just lobbying, straight lobbying; there's no corruption. But what I'm saying, let the local municipalities decide on the lot levy, not the ministry.

Mr Lalonde: Thanks again for your presentation. I fully agree with you that the development charges should be left to the elected officials because they are the ones who really know what's going to happen in their community and what the needs are going to be. The only thing I'm concerned about is the hard services expansion. When I say hard services, I mean expansion of lagoon systems and all those things. This should be left within the development charges, but who do you think should be responsible for the upkeep of the services after?

Mr Campbell: Once the services are in and the capital costs have been accounted for, then the general levy.

Mr Lalonde: What is your feeling that on minor variance there's no way to appeal except that a municipal council could appeal to the OMB at the cost of the municipality, not the person going against that minor variance?

Mr Campbell: There were so many items in there for us to comment on that that is one we didn't look at in depth.

Mr Lalonde: But as you know, only a municipal council can appeal to the OMB.

Mr Campbell: I'd rather not make a comment on that, since I am speaking for the field naturalists and I wouldn't want to state a position that we hadn't as a task force examined. I do have my own personal opinions, but I'd prefer not to mention them right now.

Mr Bradley: I heard your comment on the tax cut. Are you aware that the Ontario government is going to borrow over \$20 billion and pay over \$5 billion in

interest to give you and me a tax cut when the deficit is allegedly the problem? I heard you make reference to the tax cut; that's why I ask that question. I wasn't going to ask it otherwise.

Mr Campbell: The deficit is one of the serious problems.

Mr Bradley: Well, we're going to borrow money to give you and me a tax cut.

Mr Campbell: Yes. I can't see that rationale. As I explained, personally—I can't speak for the other taxpayers of the province—I don't need it. I'd like the money, but I'll invest it right now. I'm not going to go out and buy something I don't need. When I need a new car—it was okay coming down, wasn't it?

Ms Gartshore: Well—

Mr Campbell: Unless you complain about the noise.

Ms Gartshore: It could be smaller.

Mr Campbell: It's a 1984. When I do need a new one, I'll just cash in some of my investments and I'll buy it when I need it.

The Chair: Thank you both for taking the time to make a presentation. We appreciate it.

DEREK GRAHAM

The Chair: Our next presentation will be from Derek Graham. Good afternoon.

Mr Derek Graham: Thank you for the opportunity to provide comments on Bill 20. The Planning Act and the manner in which it is proposed to be revised by Bill 20 needs some serious revision beyond the scope of Bill 20. The Planning Act's policy implications are enormous for the commonsense development of Ontario. I will only touch on a few matters which the layperson should be able to see as an indicator of the need for a closer and more careful technical review, at least, of the whole act.

I've been involved with the act in its various forms since the early 1970s. This includes my appearance before both committees for the Comay report and the Sewell commission.

1530

With some exceptions, there is still little actual change seen in the process of orderly planning documents in Ontario with Bill 20. As land use planning in Ontario has such a great impact in and on Ontarians, should we not be at least getting the process closer to a more commonsense, practical mode?

I follow with a few examples of rather simple situations which presently exist within the act that either policy branch doesn't understand or legislative counsel cannot fathom the language necessary to include to make the process work without reinventing the wheel or, if neither of the above, I'm suffering from the ABM. These are not unique examples to our land use planning practice alone, as I believe that some of these have been brought to the attention of the ministry staff by ourselves, AMO and other legislated bodies; however, apparently yet to no avail.

I feel that the time line for official plan approval is overly optimistic, given that the various commenting agencies rarely meet the proposed time line now for the ministry. Downloading to the local municipality seems

very reasonable from a political and fiscal standpoint, but the technical expertise in planning matters is generally sadly lacking at the municipal level.

By bumping down the responsibility for overall planning to the county level, a new dynamic of frustration becomes a portion of the equation. The legislation and the ultimate power to enforce it comes from the highest tier and the next tier down is supposed to implement it.

In Wellington county, as a practical example, the director of planning has provided an excellent resource to act as a mediator when ministry concerns were raised, even at the OMB level. By placing his office as the only available lead tool of overall planning in this county, it places the county planning office in an inexorably difficult position in trying to be planner, conciliator, judge and jury between the various forces in the overall planning mode.

A recent example of this difficulty was the circumstance of an application for annexation of approximately 60 acres from a rural municipality to a more urban one for industrial expansion. There is no statute-bound provision for notice in the Municipal Boundary Negotiations Act to the parties adjacent to the lands under review, as there is in the Planning Act. The mass of land on which there is to befall the "wisdom of best planning" is not subject right from the start to notice provisions, as there is in the Planning Act. Our tax-exempt, one-acre client adjacent to the four acres at the corner of the checkerboard of the total 65 acres at the intersection of two county roads, under which there already were certain buried municipal services flanking our lands, was never notified of any change in the municipal boundary status of its neighbour until the newspaper printed the official notice.

The county planning staff provides planning support to the two municipalities. When the objections were put to the proposed annexation notice set out under the MBNA, as the parties adjacent were never notified, the political atmosphere placed the whole matter into an eventual nullity. By an appropriate notice under the Planning Act, the objectors and their respective planning counsel could have assisted in the negotiations. Even after the second time at attempting to describe the lands involved in the annexation agreement bylaw of the two municipalities, the land in question did not include all the urban municipality's existing buried municipal services, nor did it provide for any room for the expansion of the already crowded, land-poor sewage plant.

The warden of the county is the reeve of the annexing municipality and has the AMCT designation.

This is a simple example of three things:

(a) The lack of the power within the Planning Act to support the mechanics of good planning and the incompatibility of the act in relation to other acts.

(b) The impossibility under Bill 20 of the inclusion of a neutral referee-facilitator in the Planning Act process, as the local planning authority is in an untenable position, unable to propitiate the matters at hand.

(c) The lack of practical knowledge at the lowest-tier level of the process and the political inability to identify the resolutions required.

One of the key tools of planning should be a sufficiently universal, province-wide mapping database: "should," as it does not exist. When various mapping is prepared intraministries, it is done for one-user reasons at a poor government-wide cost-benefit level. What is needed, as indicated during our recent meeting with the Honourable Norm Sterling, is a common base for all land information system users. Existing and recently generated unipurpose drawings and data capturing does not interface well enough with a second user, leading to a gross waste of money and resources.

As indicated in our recent meeting with the minister, his ministry's land registry office Polaris program, which is unfortunately continuing, is recognized by his staff, by career lower-rung civil servants and even by the persons actively preparing the mapping portion as a low end use and an unreliable product which serves a very narrow utility at great cost because it fails to work with the other ministries' mapping and land information programs.

The net profit from the service fees alone in MCCR's real property registration branch has exceeded in past years \$21 million, yet none of this is reinvested in adequate, reliable base mapping which could be used for all planning modes. The Polaris system's profits appear to be siphoned off by an unavailable secret contract with Altamira Corp, using a company called Teranet, with demonstrably little regard for the client-user of the system. I am unable to determine the breakdown of the split in the profit between the public-private sector company, Teranet, and the province. It would still seem that a province that is so fiscally in hock should be securing the profit from this area for the running of the province rather than splitting it in any way with a company whose principals created the Polaris program when working as civil servants in MCCR and then retired and moved into Teranet. If Polaris continues, as it appears to be doing, without review by the users, Mirabel will look like a mere blip of ineptitude in public policy when compared to the Polaris program.

There appears to be a complete lack of clarity in the need for interministry cooperation and cofunding. MCCR should have absolutely nothing to do with the preparation of any mapping in Ontario. It, along with MMA, should be a user-contributor in the vote towards land information mapping, not a generator.

It would appear that Bill 20 still has not recognized a number of impractically legislated situations in spite of a number of representations to MMA staff by ourselves and others.

The consent process under section 53 needs serious review. There should be ministry guidelines as to how the consent process works so the myriad of committees of adjustment, minor variance committees and land division committees have a commonality of procedure. At the present time, the act is very silent as to guidelines for these tribunal bodies.

In our past discussions with MMA staff, we gained the impression that there seemed to be three groups within the ministry individually putting Bill 163 together with little discussion between each group. Is this Bill 20 just a further effort by the same parties in such a short time

which may have been a minority report in another government's life?

One of our main concerns is subsection 50(12) of the act, which in effect says that you can only deal in the future with an identical parcel created by a consent or if created otherwise prior to the act.

As an example, if a parcel created by consent is identical in nature to a lot created by a registered plan immediately adjacent thereto, and if both the consent lot and the registered plan lot are widened by an expropriating authority then, subsequent to the expropriation or conveyance of the widening, neither the consent lot nor the registered plan lot is the identical lot or parcel. However, one can continue to deal with the remainder of the registered plan lot by using clause 50(5)(e). But one cannot deal with the remainder of the consent lot without going back to the land division committee and asking for a further consent. This in effect creates second-class properties in Ontario. A simple amendment to 50(5)(e) by including the words "or by a lot created by a consent under section 53" after the words "after coming into force of this section" would solve a goodly portion of the problem.

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There is a problem with 50(12) in that if one wishes to add to a previously consented parcel, because of the wording of the act, there have been interpretations by the courts and the land division committees that because of the "identical parcel" provision, the original parcel will stand on its own in perpetuity as an identical parcel even if one were to add a minimal strip to it. Because of this interpretation, we've had to parade through a long, expensive, circuitous and rather silly performance to achieve something which common sense would take care of expeditiously without the deeming of lots as well.

As an example of the planning gymnastics we are subjected to, we draw from our recent files an application for consent to the Wellington county land division committee. A number of years ago, a farmer retained a small piece of land, described on paper in his deed, on which to build his retirement home. He and his wife sold the farm to his son and daughter-in-law, and he did build the house and he did live in it. The wording in the deed was very specific and unambiguous. Through error or oversight, what was used and built upon, however, was considerably more than what was on paper.

In order to attach the correcting amount of land to the original paper title, we had to create a fictional consent to undo the original consented parcel. We then had to apply for another consent to detach the correcting amount of land from the bigger land holding. Then we had to apply for another consent to join all the parcels created by the two previous consents so the final portions would all be able to stick together, as none will then be the identical parcel and able to live on its own. This is the same type of fictional nonsense we must go through for a lot line adjustment if you wish to add two inches to your property.

Again, very simply, I would suggest this legislated situation can be handled without any harm to good planning or good law by placing a further clause 50(12)(a) stating—and I think you can read that.

If one were to glance through subsection 53(1), you would find reference to "a consent as defined in subsection 50(1)." Try and find it. Try and find the definition of a consent anywhere in the act. One should think of a reasonable person who has never dealt with a consent trying to determine from the act what a consent is. Try and find out what a provisional consent is under subsection 53(17). It's not defined either.

Try and find out what a plan is as used a number of times in the act. Is it the official plan, the draft plan of subdivision-condominium, the plan of subdivision-condominium, a plan to illustrate something with or without legal basis under the Surveys Act, a reference plan, or is it really a sketch?

There are very few definitions in the act, and as the use of words not normal to the vernacular are interpreted rather than read as defined, it adds much to the cost of the process.

It is hoped that you will be able to see that I am trying, now for the third time, to review the act and to make it better with adequate reasoning and solutions. Thank you.

The Chair: Thank you very much for your presentation. We've got approximately five minutes for each of the caucuses, and this time the questioning will commence with the government.

Mr Graham: As long as it's understood there's more wisdom on that side of the mike than on this side.

Mr Baird: Wait till the answer first.

Mr Smith: You've raised some interesting points, some very technical, and certainly some general comments. I couldn't agree with you more about your position with respect to official plans and the Municipal Boundary Negotiations Act. I guess when you're the member from London-Middlesex and you have recently seen the annexation of 26,000 hectares, only to find out three years later that the community's needs are around 3,100 hectares, it really puts into place the relationship that should exist between those two processes. I was also pleased to hear that you've had the opportunity to meet with Minister Sterling. I'm pleased to hear that he's consulting with people on various concerns, and particularly as it applies to the Polaris system.

One quick question: As a practitioner, obviously under Bill 20 we've addressed the issue of removal of right of appeal with respect to minor variances through the committee of adjustment. I was wondering what would be your view in this regard: Should the government proceed with the bill as printed—we've heard argument regarding denial of natural justice—should we retain the status quo in terms of the current appeal mechanism, or is there another alignment or structuring process that you feel would adequately address the minor variance process?

Mr Graham: As I indicated herein, there's the ABM and the BBM. The BBM is the below Bloor Street mentality and the ABM is the above Bloor Street mentality. In my experience in minor variances that are not in a highly urbanized area, they kind of go and there are very few appeals where people get really excited about it. There's also the recourse, judging the politics of the matter. If it really doesn't work and you see it's not going to work as a planning practitioner, I would suggest

going for a zone change and then you really have it. It's a judgement call. The loss of natural justice to me is after the 10th commandment.

Mr Smith: Do you have an impression that under the current provisions of the bill, without an appeal mechanism to the OMB for minor variances, there will be a significant increase in the number of rezonings that take place?

Mr Graham: I don't see it as a great issue in the majority. I can see it can happen, and that maybe is the judgement of the people going for the minor variance. To try and take three dimensions, or the fourth dimension in planning, the whole environment of the matter, and stick it on two dimensions doesn't work. It's the same with cadastral land surveying. You can go to court with the case, but unless the parties have actually seen what's happened and can kind of look at it, sometimes it's, "Why are we here?"

There was a recent board case in Wellington county where it was absolutely ludicrous to put private services immediately adjacent to an urban municipality for a residential development, particularly when 300 or 400 feet away there was a swamp, and yet that's where it was engineered to put the tile beds. In essence, what's written on paper, there should always be a little mechanism maybe to fix it on the local level, and as I said in here, maybe the best thing is for rules for the minor variance committee. There aren't any.

Mr Hardeman: Thank you to the presenter. You are the first presenter who has spoken to the issue of the computerized mapping and being consistent throughout the ministries so we can put it all together so it could be used by municipalities and everyone else involved in the industry and they wouldn't have to reinvent the wheel every time they needed this information. But in your presentation you refer to the \$21 million that Polaris had somewhere along recognized as profits, and it doesn't seem to have turned up anywhere, and you go on to talk about the Teranet and where the profits from that would go. My understanding was that Teranet was not only not making a profit but was having some considerable difficulty making ends meet, that not enough contracts had been signed with municipalities to utilize the service, that it was having trouble becoming private sector cost-effective. Could you give some comments on that?

Mr Graham: I was in Middlesex last week and the head of Teranet gave a presentation. I happened to have written my exams with him. I've known Ron for quite a while: a really nice man. The difficulty with the mapping within the ministries—and having worked in the surveyor general's office in the early 1970s, you've got to realize that there's more politics played behind in the Whitney Block than there is in Queen's Park. The various ministries guard their own bailiwick all to their own, and if everybody had the same base to work from, it would work.

The \$21-million profit is the net profit from expenses and revenue in the real property registration branch. It goes back, I believe, into the consolidated revenue fund. Now, if a portion of that money was taken as an income generator, set out—and I have my favourite. It's MNR. That's the body that should be doing the land information

system in Ontario, period. You can't convince me otherwise except with a hammer. Then all the various ministries supply with their vote and they buy the service. Why we are splitting the profit of Teranet, when you cannot find out what the contract is, you can't find out the split—why, if we're in hock, are we splitting it with a private company? That was what I put to Norm Sterling, and I'm afraid the answer was somewhere.

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Mr Conway: A very interesting brief, Mr Graham. Someone said, "The devil is in the details." You certainly have the devil well cornered in this excellent presentation.

On page 1 of your brief you make a point about the technical expertise in planning matters rather lacking at the local level. I think it's clear that a measure of the general direction in this bill and the policy that informs it is to provide more decision-making at the local level. Given what you've observed over the years and what we know is coming in terms of smaller governments, governments probably with fewer resources, what's going to happen three to five years from now in places like Wellington and where I come from in Renfrew? We may not even have a county left; who knows? What do you see as the capacity of local government to meet some of the obligations that are going to devolve to them?

Mr Graham: Are you asking me as a planner or as a cadastral land surveyor?

Mr Conway: You made a presentation. You were talking about the want of technical expertise at the local level. My impression is that we're probably going to have no great increase in technical expertise at the local level.

Mr Graham: If you don't make the rules, you shouldn't be playing the game. The rules are made by the upper tier, being the province. To me, it would have been brighter to say, instead of closeting all the planning experts in MMA or Housing in Toronto, put them out in the district, as Ag and Food does. Put the experts out there right at that point. If you're downloading it to the county level—and Mr Cousins is a very bright and a really nice man—

Mr Conway: The Reverend W. Don Cousins?

Mr Graham: No. You're close. Gary Cousins. But if he's supposed to be able to be judge and jury and try to find a solution from rules that are set down to him and still advise the municipalities, a person only has one head, and you're raising a point that—

Mr Conway: And you think the Royal Bank manager in Aberfoyle or Salem will be more sensitive to—

Mr Graham: West Salem, yes.

Mr Conway: You think they'll be more sensitive to the needs of Aberfoyle or Salem than they might be to head office in Toronto.

Mr Graham: I'm saying that you put your provincial experts in the local area. We have plan after plan after plan that are never seen by provincial staff, so their utility and the expertise they have in viewing the whole of the province is insular.

Mr Conway: A final question. I was struck by the example you cited on page 4 about the farmer and his wife who had the problem with the small piece of land.

Just as a matter of interest, who made the mistake in the first place? I ask the question because I'm increasingly impressed by the number of people with good, professional credentials who seem to be making these mistakes, and there doesn't seem to be very much recourse.

Mr Graham: I honestly cannot speak to who made the mistake other than, naturally, it wasn't any Ontario land surveyor.

Mr Conway: Well, I'm sure not.

Mr Graham: Or any member from Renfrew.

Mr Conway: I'm not so sure that would be a given.

Mr Baird: There are two members from Renfrew.

Mr Graham: My deepest sympathy. The concern that you have is, why did it go wrong?

Mr Conway: Yes, I was just interested. You make a good example. One of my questions, though, in cases like this, because I've seen my share of them over many years, is who made the mistake in the first place.

Mr Graham: I would suggest the individual, because unfortunately not all of us are educated in everybody else's business, and so we don't know. It seemed reasonable to put the house there. How much have you bought? At that time there was no requirement; it was more of a rubber-boot-per-second measurement. Now it's a little better, but if I go into Wellington I know what their game plan is in the consent process. It's an arduous and, as I pointed out here, a silly process because of the law as it's written. If I go into Halton I know they'll say, "Well, that's kind of dumb; let's do it this way." If I go into Dufferin, it's handled sort of more at the minor variance level, that common sense overcomes.

The Chair: Thank you very much for your presentation before us this afternoon. We really appreciate it.

CHRISTIAN FARMERS FEDERATION OF ONTARIO

The Chair: Our next presentation will be from the Christian Farmers Federation of Ontario. Mr Christopherson had to go out to return an urgent phone call and he asked your forbearance for his absence.

Mr Elbert van Donkersgoed: Thank you, Mr Chairman. My name is Elbert van Donkersgoed. I'm staff with Christian Farmers Federation. I have with me John Markus, president of the Christian Farmers Federation, and Jasper Vanderbas, one of the vice-presidents of the Christian Farmers Federation. Mr Markus is a dairy farmer and Mr Vanderbas is a pork producer.

I'm going to go through our brief. I won't read it all, since there's a fair bit in here. I'll read the highlights and the gist of what we want to say to you about Bill 20, and we also want you as our legislators to be aware of how we feel about the policy statements. I assume the plan is, as it was with the previous government, to adopt the policy statements at the same time as the Planning Act. So in that context we want you to be aware of how we feel about the policy statements as well. Even if you don't focus as much time on them as on the act itself, from our perspective, agriculture's perspective, the policy statements are probably more important than the actual procedures under the Planning Act.

Mr Bradley: That's true.

Mr van Donkersgoed: To begin with, why is CFFO interested in land use planning? The members of CFFO are primarily family farm entrepreneurs who make most, if not all, of their family income from the business of farming. We and our fellow farmers own much of the prime agricultural land in this province.

The members of CFFO have a history of keen interest in land use planning. We see ourselves as stewards of this gift of good land. We are committed to long-term stewardship of this land, but we need the support and blessing of our provincial and municipal governments if our efforts are to be effective. We need a provincial policy statement that recognizes agricultural land as a valuable resource and provides for its long-term stewardship.

We were encouraged by many of the previous administration's changes to the Planning Act and by its adoption of the Comprehensive Set of Policy Statements. The agricultural content of these statements was a great improvement over the 1978 Food Land Guidelines. However, they also contained some serious shortcomings, especially with regard to keeping rural Ontario open for the business of farming.

We are pleased that the revised draft policy statement as it relates to protecting agricultural land and the business of farming retains many of the improvements that the previous administration made. There is some retreat from protection of our best land. Significant parts of the revised policy are simply steps sideways, and there are some clear-cut improvements. Some of our basic concerns with regard to keeping rural Ontario open for the business of farming remain unmet.

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The future of our farm businesses includes more intensive production activities and more value-added activities on our farms. In recent years we have experienced a growing number of official plans and zoning bylaws that describe the countryside as a place for pastoral activities, not the intense and productive enterprises that are the base of our rural and small-town economies.

We strongly prefer the phrase "be consistent with" for the following reasons.

The biggest reason for the slowness of the planning process in the past was the existence of the phrase "must have regard to" in the Planning Act. It leads all participants to try to second-guess what the provincial policy or an official plan clause or a zoning bylaw statement means. No one feels bound to accept as a precedent previous interpretations of the language in planning documents. This phrase, more than anything else—and we can't emphasize this enough—led to debate after debate and slowness of process.

Municipalities become beholden to professional planners and their interpretations of the language of planning documents rather than citizens being able to understand the plain language of policies and bylaws. Words that set a lower standard of compliance with the plain language of the provincial policy statement—and thankfully the draft is written in fairly plain language—will be great make-work projects for lawyers and planners at the expense of all citizens. The underlying purpose of the provincial policy statement is to help

municipalities get the planning job done. If you make the context vague, leave it at "have regard to," the policies will not help. A vague context will require extensive implementation guidelines for the provincial policy statement. This was the biggest mistake of the previous administration, the creation of a four-inch-thick implementation guideline.

We favour keeping the policies clear and precise and letting the municipal official plans be the guidelines to the interpretation of the provincial policies, ie, very limited guidelines from the province. There is not much sense to putting all this effort into creating provincial policies and then not making serious use of them.

Bill 20 drops the concept that regulations can specify that official plans will be required to address important planning issues. We object. The protection of agricultural land should be required for all official plans. We need some consistency from one municipality to another. There is nothing worse for a municipality's local commitment to agricultural land protection than a neighbouring municipality that scatters development up and down every concession regardless of the productive quality of land.

The proposed 90-day period for a municipality to deal with an official plan amendment is too short. Understanding official plans and their implications is a challenging task for many citizens. They need time to consult and be consulted. If an official plan can be changed on such short notice, it really doesn't mean that much. It would not be a plan. A plan is meant to last for a while. The shorter the time frame for amendments, the more amendments there will be, and the proposal reduces official plans to temporary documents just waiting for the next round of changes.

The proposal to withdraw the province from approving official plans passed by upper-tier municipalities leaves us uncomfortable. In a democracy we need checks and balances. If the requirement was to "be consistent with," we would have less concern. We support the idea of municipal restructuring and are very willing to consider a future with only one tier of municipal government; we think two tiers are expensive. Let's not hand the upper tiers more reasons for justifying their existence.

After extensive discussion in our think tanks, we have decided to support a one-window approach to provincial reviews of municipal planning initiatives and we have decided to support the Ministry of Municipal Affairs and Housing as that window. We realize this means a much reduced direct role for the Ontario Ministry of Agriculture, Food and Rural Affairs, but we assume that OMAFRA will retain an advisory role to MMAH. We believe that MMAH can become an effective watchdog for agricultural land protection. We are willing to give them a try.

The past, with OMAFRA as the prime watchdog for farm land, was not that great. OMAFRA was not able to break the economically damaging waves of scattered rural development that have occurred in most municipalities. Only five counties or regions were helped to break the pattern of scattered rural severances. OMAFRA tended to focus on keeping incompatible uses away from each other. The need to refocus on keeping the countryside open for the business of farming may be easier to

emphasize with a new approach. We are willing to become more serious in our own role as watchdog of agricultural land. We also hope that municipal restructuring will result in fewer municipalities to watch. We are very conscious of the reality that agricultural protection policies need good local support to be guaranteed success.

The existence of a real provincial policy statement on the protection of agricultural land will make our efforts to protect these lands more effective. I just want to put in context that the Food Land Guidelines did work to some extent, but we fully assume that the policies, once adopted, will do more than the Food Land Guidelines ever were able to do.

We are disappointed in the choice of words for the three principles of planning as they appear in section II of the provincial policy statement. The language, especially in clause 2, is that of short-term economics and benefits. There is no commitment to protecting resources for the long term. As stewards of the land, we are committed to protecting the long-term productivity of the land and the intrinsic value of the soil for the common good. But why would we maintain this stewardship attitude if the province and our municipalities do not protect resources for the long term in their planning documents? If municipalities are not expected to put the common good before short-term economic interests, how will we be able to maintain our stewardship principles?

The choice of language leads to a plain language interpretation that resources are protected only for their highest and best use, economic use, in the immediate future. Resources like farm land need more than protection. There are opportunities to enhance and expand the renewable commodities it can produce. We request the inclusion of a clause that makes it clear that municipalities should pursue the long-term common good and uphold stewardship principles for resources, not just protect resources. We suggest the following additional principle, that Ontario's long-term economic and environmental health depends on areas of prime agricultural land being maintained and enhanced for the intensive production of food, fibre and other renewable commodities.

Some specific points in connection with agricultural land in the policy statement: the definition of "prime agricultural land." The proposed definition needs to be clarified. We strongly endorse the inclusion of the phrase "in this order of priority for protection." The accuracy of the existing Canada land inventory classification system is often disputed in the planning process.

By itself, this classification is good, but it is not adequate. We need an additional officially recognized method of determining the quality of food land. The approach used by previous administration is acceptable to us. Over time, we need to develop a land evaluation system that is delivered by an independent third party, such as the Ministry of Agriculture and Food and Rural Affairs, so that many hours are not spent in disputes over the productive quality of food land.

The provincial policy statement in section 2.1, "Agricultural Policies," provides some good protection for our best land, but what about the food land east and north of

Toronto that is not prime agricultural land on a provincial scale but is the best land in those areas?

These lands and established farms in these areas also need protection in the planning process. We request that a second category of agricultural land be included in the policy statement. This should include all the lower qualities of food land if it is actively and continuously farmed. It should also include small pockets and all existing established farm enterprises.

These lands need the protection provided by the minimum distance separation formulae. They need the right to farm protection, they need to be eligible for farm program benefits such as property tax rebates, they need to be included in the development of environmental farm plans and they need the benefits provided by the Drainage Act. But this second group of lands does not need as much restriction on severances, and we support the use of a justification procedure to allow the development of non-agricultural uses, such as golf courses.

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All food land is very important and needs protection, but we are very willing to put more emphasis on the most productive lands, Canada land inventory classes 1 and 2 and specialty crop lands. We are willing to move class 3 out of the prime agricultural group, the group for which we want absolute protection, and put it into the secondary agricultural land group, the group for which we seek a more flexible level of protection.

We balance our desire for absolute protection for the most productive land with a more flexible approach to class 3 and less productive land. If official plans and zoning bylaws provide firm protection for the most productive land, most of agriculture's long-term interests will be well met. It will be easier for municipalities to support the provincial policies on the most productive land if it is clear that there is more flexibility on the less productive land.

We do not support the inclusion of clause 2.1.3 in the provincial policy statement. Its implications include the possibility of a golf course being justified on prime agricultural land. It also raises the possibility of non-agriculture-related industrial and commercial developments scattered across the countryside.

These developments do not belong on the most productive agricultural land as a matter of principle. We are pleased that no scattered residential developments are contemplated. These belong adjacent to existing towns and hamlets. We would support the inclusion of this justification clause if it was clear that it only applied to less productive land. In other words, we accept that golf courses could be justified in an area of secondary agricultural lands. Mitigation will be an important part of justifying any of these developments.

The justification clause is also acceptable to us for locating estate residential developments in secondary agricultural areas.

We support the inclusion of compliance with minimum-distance separation formulae with caution for both primary and secondary agricultural areas. The existence of the formulae for new severances suggests that severances are expected near existing farm enterprises. The

application of the formulae to existing rural residences creates an urban shadow around each of these. We need them because so many scattered severances have already been allowed in the countryside and the formulae are a short-term compromise to accommodate an existing situation. To keep the countryside open for the business of farming, we need to be able to take our extensive activities close to existing rural residents.

The formulae leave much to be desired. They do not take into account prevailing winds. They assume that all farmers are poor managers of dust, odour, noise and other nuisance factors. As the policy now stands, much of our food land east and north of Toronto will not receive the protection of these formulae as the agricultural policy section does not apply to these lands.

We support the inclusion of protection and promotion of normal farm practices in both primary and secondary agricultural areas. As the policy now stands, much of our food land east and north of Toronto will not receive this protection and promotion as the clause is limited to prime agricultural areas.

There are well-established and commercial farm enterprises in secondary agricultural areas. They need this protection just as much as those enterprises in southwestern Ontario. As the number of farmers in rural Ontario shrinks compared to rural residents, this protection will become crucial to keeping the countryside open for the business of farming.

We are aware that our approach will make it difficult for some townships with predominantly prime agricultural lands to expand their tax base or to pay for new services by adding new development. We share this concern but look to municipal restructuring, provincial transfers to townships and, if necessary, new revenue sources, such as sales taxes, for solutions. Continued fragmentation of the farming countryside will limit severely the ability for agriculture to develop. Continued scattered development will undermine the wellbeing of rural towns and villages. Any further scattered development of any kind will compromise our ability to maintain our intensive farming activities in these areas.

We need the best land for our present and emerging technologies. It does not pay to take \$200,000 combines and harvesters across class 4 agricultural land. There's only so much economic development money available in rural Ontario. If development scatters, it will not be available to towns and villages. Many towns and villages have already suffered at the expense of scattered development of the past 25 years. There has not been enough development money to modernize many of their downtowns.

Adding 10 businesses to an existing town creates a potential that promotes further development, such as the establishment of a doughnut shop. Ten businesses, scattered one per concession have no possibility of developing the critical mass essential to economic growth.

If after all the above have been tried and some prime agricultural land must be taken, we agree to the following: It must be adjacent to an existing town or village with a clear preference for the development having access

to full services; the justification process must be used; the land with lesser productivity must be taken first; the proposal must not be driven by flat food land being the cheapest to build on; additional costs to move the development to poorer land is not accepted as proof that "there are no reasonable alternative locations."

There is not enough development activity across rural Ontario to support both scattered rural residential, industrial and commercial activities and have a healthy redevelopment of our towns and villages. Allowing the development to scatter will guarantee a further decline in our town and villages.

The previous administration included the phrase, "Lot creation in prime agricultural areas is generally discouraged." This provides an appropriate context for the policy on severances. We request that these words be put back into the revised version.

We do not support farm retirement lots in prime or secondary agricultural areas. We do not support the severancing of residences surplus to farming operations in prime or secondary agricultural areas.

We are uncomfortable with the proposal to allow infilling in prime agricultural areas, but we have agreed to support them if they are limited to infilling those areas where there is room for one more residence. We request a change in the definition of "residential infilling" to "significantly less than 100 metres to a size that accommodates only one additional severance." The policy should also apply to secondary agricultural areas. We recognize that the farming business is already jeopardized, but each residence makes the urban shadow that much more intensive.

The previous administration prohibited public service facilities in prime agricultural areas. The new version leaves this out. We object. We believe it belongs in there.

Finally, we do not support a special status for agriculture-related uses when it comes to severances in prime and secondary agricultural areas. Development is development and we oppose scattered rural development. The economic benefits of agriculture-related uses are much greater if they occur in or adjacent to towns and villages.

Our thanks for this opportunity.

Mr Bradley: I want to compliment you on a very thorough brief that is presented to the committee. I agree with most of what's in it; not all of what's in it. There could be a series of questions that could be asked on this, but I am heartened by your stand on severances. I know somebody who I could send a copy of this brief to on severances because I have seen them divvied out in a rather interesting way in certain parts of Ontario.

Is it your belief that severances, in effect—let me put it this way—while taken by themselves may not appear to be serious, really represent death by 1,000 cuts for the agriculture industry in this province?

Mr John Markus: I would like to respond to that. It does over the long haul, because severances have been proven that the original owner lives in them for two or three years, and now with the recent MDSs coming down—plus agriculture has also been identified as an economic engine, as you are well aware; we are 20% of the economy.

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Let's just take my own operation. A house was put up and it's no problem right today, but if we lose the NAFTA panel or in 10 years we lose our tariffication and I have to build a barn with 200 cows in it to survive, which I have no problem doing, the MDS formula and my next-door neighbour could put a damper on that expansion. Does that mean I close shop and go somewhere else because he's sitting there, or am I going to go and bend the rules? What am I going to do at that point—or I'm going to put the barn in the centre of my 130 acres and cause a whole lot of other grief.

So I'm asking that question, as we have been identified as an economic engine, we've also been identified with our ability to export. As a matter of fact, Ontario exports 45% of Canada's exports in agriculture products, so if we were going to be that kind of an engine, we sure do not need any roadblocks in the way to make that happen. We all know we need that engine if we're going to get out of this debt.

Mr Christopherson: Thank you for your presentation. There's not a lot of time available, but under 5.2(b), you talk about being supportive of "granny flats and temporary trailers" for retirement purposes as opposed to seeing the land permanently gone. Can you just expand a bit on that for me? I don't know a lot about this issue yet.

Mr van Donkersgoed: My mother is 87 years old and she lives in a trailer on my sister's farm. That's a township that accommodates retiring people by that fashion and it's a wonderful way to handle that, if that's the choice of senior people. It also works for bringing a young family on to the farm if the farmers themselves aren't ready to leave the property itself.

The concept is, you put a trailer on the property, tied to the person, tied to the family. If the family moves, the trailer moves. There is no reason to create a permanent severance in order to accommodate that need whether it's a two-, five- or 10-year temporary spot for an additional family member. We believe that works fine for agriculture.

Mr Christopherson: Are there many regulations involved in—

Mr van Donkersgoed: Those townships that have accommodated that across the province—there are not many, but those townships that have accommodated that have not had serious problems with it and it's a one-page regulation.

Mr Christopherson: Excellent. It's along the same sort of lines that we tried to do in urban settings and maybe there's a model, an example for us there.

Mr Hardeman: Good afternoon, gentlemen. It's nice to see two out of the three coming from the agriculture or the milk capital of Canada at least, Oxford county.

I wanted to go quickly to the part of the presentation about shall "be consistent with" as opposed to shall "have regard to." We had a presentation this morning from the federation of agriculture who felt that the change to "have regard to" was appropriate giving some flexibility to municipalities to judge the provincial policy statements to their local needs.

The next presentation suggested that it should "be consistent with" because the record shows, as your presentation shows, that not many municipalities have been able to actively protect the farm land and restrict development. I'm proud to say that Oxford is one of those counties that has done that. They suggested that it should "be consistent with" to make all do that.

I wondered if you could give me some indication why you feel that the other areas, planning jurisdictions, have not been able to do that. I just can't see the difference in the decision-makers being that great. Why is it that those who started years ago are able to maintain it, but we can't seem to get those types of local decisions in all areas?

Mr van Donkersgoed: The circumstance goes back to 1978 and the adoption of the Food Land Guidelines. Basically, what the Food Land Guidelines were—they're kind of a policy statement, but they weren't a policy statement. Any municipality that said: "We're going to adopt this. We want to do this"—basically what this document said is, "If you want to protect agricultural land, here's how to do it." There are four municipalities who did it voluntarily. There's a fifth that got into it because of a major Ontario Municipal Board decision in 1972 and basically adopted this within their official plan.

So a municipality took the approach that if they want to do it, here's the way to do it. The existence in the past was simply if you don't want to, there's nothing says that you have to. Now the question becomes for the future, now that we have a real policy statement—we have the policy statement from the previous administration—the proposal and the revised version in front of us leaves much of it intact, modifies it here and there, improves it, weakens it, but leaves much of it intact. We are going to be in a very different position in the countryside. Then our position is, let's "be consistent with," because that will give us lots of confidence that what's going to happen in five municipalities is going to happen in the rest, but more importantly, we will all understand the rules of the game. We will be able to read the plain language of the document and know what the rules are.

If you leave it with "have regard to," we will all be fighting about what the plain words mean at every hearing, at every conversation, at every debate, because—I'll let you know right up front—if you leave it with "have regard to," we will feel, as an organization, the need to go into every county and argue that the plain language says they must do it. I think the plain language and the Planning Act should say they must do it, not leave it up to me to go in and argue it.

Mr Hardeman: Based on the Ontario Municipal Board decisions, and I guess going back to the Oxford situation, using the words "shall have regard for," are you aware as to how successful that has been when those applications have been appealed to the Durham municipal board?

Mr van Donkersgoed: If the municipality has adopted this document as the basis of its official plan, the Ontario Municipal Board almost invariably has supported the policy of this document.

The Chair: Thank you, gentlemen. We appreciate your taking the time to make a presentation before us.

HAMILTON REGION CONSERVATION AUTHORITY

The Chair: Next will be the Hamilton Region Conservation Authority. Good afternoon, gentlemen.

Mr Alan Stacey: Thank you very much. Just for the committee's clarification, we have had one change of personnel. I'm Al Stacey, chair of the Hamilton Region Conservation Authority. We have Mr Darcy Baker, who is our senior planner, with me this afternoon.

Mr Bradley: You mean you still have a planner after the cuts?

Mr Stacey: We have. I would like to thank the committee on behalf of the Hamilton Region Conservation Authority for the opportunity to appear today. The HRCA will be celebrating its 30th anniversary in 1996. As well, the Association of Conservation Authorities of Ontario is celebrating its 50th anniversary this year. Over the past three decades, we have worked in partnership with local municipalities and the regional government to promote wise planning and sustainable development.

As you may know, conservation authorities have been significantly affected by recent changes in the way the province does business. We have acknowledged these changes and accept the challenge to reshape our organization to meet the needs of our constituency.

The HRCA supports the objectives of Bill 20, such as speeding up the planning process and providing greater flexibility for local municipalities while safeguarding the environment. However, caution should be exercised to ensure that we are not speeding up the process at the cost of wise planning. Clear policies and implementation guidelines will be required to support the changes recommended by Bill 20. Without direction, the planning process could be mired in conflict and long delays in processing applications. So in fact we'd be no better off than we have been in the past.

Background: Impacts to natural systems are not confined to municipal boundaries. Conservation authorities have been involved in resource management throughout the province of Ontario since 1946. We have worked with local municipalities and the provincial government to ensure that the actions of one community do not adversely impact downstream communities. The draft provincial policy statement recognizes the dynamic character of natural systems and recommends a "coordinated approach to issues which cross municipal boundaries, including riverine and watershed related issues." Certainly that's the position that we have always strongly endorsed in terms of watershed planning.

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The health of a community and its residents is directly influenced by the health of the ecosystem in which it is found. Conservation authorities are organized on natural watershed boundaries, which are ideally suited for resource management. The draft provincial policies identify the need for ecosystem-based planning studies and recognize the benefits of coordinated resource management.

Ecosystem-based planning considers the social, environmental and economic factors of land use decisions. This approach to planning is the foundation of sustainable

development and wise resource management. In addition, ecosystem-based planning will help avoid planning decisions which require further remediation.

Discussion: Although the HRCA supports the objectives of Bill 20, the draft provincial policy requires significant clarification in areas to ensure effective results.

Bill 163, the previous planning document, provided clear direction on matters of policy and generated detailed implementation guidelines. While this process may have been prescriptive, all parties involved knew what to expect. Changing the wording in the provincial policy from "be consistent with" to "have regard to" may lead to more confusion and lengthy appeals. Stakeholders will be looking to municipalities for policy direction, and developers may be forced to deal with inconsistent application from local planning authorities and, I would say as an addendum, different interpretations of what "be consistent with" or "have regard to" actually involve.

Recommendation: Thorough public consultation is required before finalizing the draft provincial policy statement. The policy statement and subsequent implementation guidelines must provide clear direction to municipalities, review agencies, developers and citizens.

Discussion: planning reform often breaks into separate camps surrounding economic, social and environmental issues. The province of Ontario cannot afford to follow this approach when we are surrounded by examples of poor planning. Ecosystem based planning strikes a balance between social, economic and environmental considerations. These planning decisions benefit the overall health of a community and contribute to long-term sustainability.

This government has criticized Bill 163 for focusing on the environment and ignoring the economic benefits of development. Care must be taken to ensure that the pendulum does not swing in the opposite direction. Poorly designed infrastructure and resource depletion could pass additional costs to the taxpayer in the long term.

Recommendation: Encourage consultation among all interests and design implementation guidelines which promote a balance between environmental, economic and social issues.

A great deal of good information was generated during the previous planning reform exercise, as a lead-up to Bill 163. This should be used as a base for further discussion and consultation.

The draft provincial policy is based on minimum standards, which have been designed to protect provincial interests. The policy is not intended to prevent planning authorities from going beyond the minimum standards, but it also does not encourage them. Areas on the fringe of provincial interest would benefit from additional protection. For example, regionally and locally significant wetlands are not afforded the level of protection the provincially significant wetlands receive in your document. Encouraging local municipalities to look beyond the minimum standards will help planning authorities protect sensitive and threatened natural areas, providing an opportunity for further enhancement.

Recommendation: Wording in the draft provincial policy should be amended to encourage planning agencies to go beyond the minimum standards established by policy.

As we have stressed, clear policies and implementation guidelines will be required to provide guidance for the planning process. Public consultation early in the planning exercise will help to clarify policy and guideline requirements and reduce the possibility for future conflicts.

The policy must be clear about matters related to impact assessment for planning applications near natural heritage features. Impacts should be investigated by qualified professionals and supported by technical studies; otherwise the planning process would rapidly deteriorate into conflicting positions.

The HRCA has worked extensively with two policy statements under the Planning Act: the floodplain planning policy statement and the wetlands policy statement. These two documents have proven to be effective in protecting natural systems and reducing the threat to life and property.

Recommendation: The Minister of Municipal Affairs and Housing should consider reintroducing the 1988 floodplain planning policy statement and the 1992 wetlands policy statement, without amendment.

In the event that this is unacceptable, the draft policy should be amended to provide clear direction on impact assessment, floodplain management and wetland protection.

The Association of Conservation Authorities of Ontario, ACAO, has considered the possibility that the reintroduction of the 1992 wetlands policy statement and the 1988 floodplain planning policy statement, without amendment, is unacceptable to MMAH. The HRCA has reviewed a preliminary draft of the ACAO proposal. We will be adding our support to the revisions recommended in the ACAO's final submission.

That is our report. Mr Baker and I will be pleased to answer any questions you may have. Mr Baker is our senior planner and prepared the document.

Mr Christopherson: Thank you for your presentation. Good to see you both again. When I stand back and look at what's happened so far—this is not the first time we've seen conservation authorities come forward to comment on the agenda of the new government—I see a triple hit. We've seen cuts up to 70% in the funding of conservation authorities. We've seen changes in Bill 26 that will have, in my opinion, a detrimental effect on the environment, and now with Bill 20, a further eroding of the protection that's been in place in Ontario. I wonder what your thoughts are on that comment.

Mr Stacey: You're correct, Mr Christopherson, that we made a presentation with regard to Bill 26 last year here in Hamilton. I guess if you're paranoid, you would think that the agenda of the government is to come down especially hard on authorities. Without speaking directly to that, because I'm not sure what the agenda may be, I think the challenge to authorities, and the one that our authority has accepted, is to deal with what is being presented to us by way of fiscal restraint and cuts.

Personally, I think the changes in Bill 20, because much of the hidden part of the authority's business in the

province has to do with planning, and Mr Baker perhaps can follow up on my remarks, perhaps strike more at the heart of what we do, what I think we've done well for the past 50 years, than dealing with the fiscal restraints.

Obviously everybody is dealing with those, so we're no different. However, changes in Bill 20 which may not protect environmentally sensitive areas to the extent they have been protected in the past are of perhaps greater concern than the fiscal cuts we have taken. Perhaps Mr Baker, who deals with these on a daily basis, might be able to add something to that question.

Mr Darcy Baker: Yes, I would agree. It has certainly made our job a lot more challenging in the last little while, with the changes to legislation, especially Bill 20. There was, last bout of planning reform, a great deal of hope on our part that the changes that were made were providing us with the tools required to carry out our mandate.

What's happened is, while the actual process was provided, the changes from Bill 20 are going to remove a great deal of the certainties you had during that process and replace them with, I can see, quite a bit of questioning and squabbling because it's not as clearly defined as it once was.

We're left to try and deal in this particular case with assessments that don't refer to technical details, technical information, and as a planner it's very difficult to try and come to terms with just differing positions without having that technical background to help support.

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Mr Christopherson: I want to say too, given that we have the time, that I think our conservation authority has just done an outstanding job in preserving the environment and playing a key role. I think it's also been a balanced approach; I haven't sensed anybody seeing our local conservation authority sort of blinded by the environment only. There has always been a realistic approach and I think you've served our citizens well. As one member in this area, I want to say how disappointed I am to see much of your ability to represent the interests of our community so badly hobbled by what the government's doing.

Also, one of our earlier presenters brought in a quote, and I didn't hear anybody refute it on the government side, from Premier Harris, on February 24, that, "No special-interest groups or lobby will stop us."

Given that we've heard that many times and that's not news to those of us who listen carefully to what this government says, what would you say to government members here in terms of, "Don't see us an interest group; we represent something broader than just a narrow focus"? Because that's something, in my opinion, this government has done fairly successfully, to label anybody that's come in as a special interest group and then they can be disregarded. I assume you see yourselves playing a much larger role than that and maybe you could give us your thoughts on that.

Mr Stacey: It'll be tempting to use some extra time to talk about what constitutes a special-interest group. As a teacher of history, I would argue that political parties are perhaps the ultimate special-interest group. Whether

you're talking about authorities or unions or bar associations or medical associations, every group of people who share a common interest is a special-interest group.

That aside, I think one of the tragedies—that's perhaps too strong a word—of this whole planning exercise, and perhaps focused on Bill 20, is the fact that authorities are seen as some block to development. I sense that, whether it's true or not, and I'd perhaps like to hear from the government members now or later on this, whether that in fact is their perception, that somehow authorities and various aspects of the Planning Act block development or are keeping Ontario from reaching its potential.

I would argue that quite the contrary is true. I think I can speak with some experience on our authority, over 20-odd years being on the authority and hearing various developers and submissions come before us, and I think the development industry, representing one of the special interests in the province, has been very fairly dealt with by authorities.

Sure, it's part of the red tape, but it's there for a reason, and I think it does protect the public good and I'm quite proud of our staff and our authority's dealing with submissions for development permits and so on in an orderly and expeditious fashion. Our turnaround period is very quick, and I think people know what to expect when they come to us.

The problem with Bill 20 is there are some fuzzy areas that leave, we would suggest, more open to interpretation.

Mr Christopherson: I would add to that from a personal point of view that if one takes a look at what happened right here in Hamilton over the weekend, I think quickly one learns that when you talk about interest groups and you do that to everybody that comes along, ultimately there's no one left, because to one degree or another, we all belong to an interest, whether it's our kids, our health care, the environment, the economy, we all have an interest. I find it very upsetting to constantly see any part of our community just set aside and disregarded because someone's put a label on them that says "special-interest group."

The last thing I want to say to you is that for all the attack that you're under, and I can be stronger in my language than you can, I do hope you'll keep morale as high as you can in your organization. You play a vital role in making this a great place to live; certainly in this community you have, and I urge you to do everything you can to try to survive as we look for better days ahead.

Mr O'Toole: Thank you very much. I appreciate the balanced report. I think it's a very fair and professional summation of your view, and I'd like to think of it as generally fairly supportive. I'm picking up on one phrase here that I just want to clarify. It says, "The HRCA supports the objectives of Bill 20, such as speeding up the planning process and providing greater flexibility for local municipalities." I'm picking up the "greater flexibility."

One of the prescriptive aspects of Bill 163 was indeed talking about that very issue. Do you think we're making, at least in this particular instance, some move towards the fuller recognition of the local conservation authorities,

together with local planning, to address the unique features and critical elements involved in ecosystem planning? Do you think we're moving in the right direction in that acknowledgement?

Mr Baker: I think one of the difficult things staff had when going through this was trying to determine the approach that would be used. All too often, it's an attacking approach, trying to pick things apart. When you start looking at the wording in Bill 20, it's all very motherhood, albeit not very much, and you can't really pick apart ideas that you don't have a lot of detailed information on.

The move to support, I guess, more flexibility and more decision-making power down to the municipalities, I think from our perspective is a good one, because of the difficult times we've had in the last three or four years or so dealing with the provincial agencies. With the number of changes and the restructuring that's been going on, it's been difficult to get that field interest boiled down to a local level.

Mr O'Toole: I think that point was made by the Christian Farmers group as well as—or no, the previous, the land surveyor, where he was saying "Get the people into the field"—and I compliment the conservation authority. I served on the two conservation authorities in my term in regional government and I was always impressed with the recognition of the stewardship on water control issues, flood control, and commenting was a very important part of their job on plans of subdivision or whatever. So I think it is the place where the decision should be as opposed to the prescriptive, centralist view. And that's the point I'm really trying to make, and simply that.

Mr Baker: I would amend comments or just add to that, that while some of these changes have perhaps positioned authorities in a little better situation between the province and the local municipalities to act as an overseer in many of those cross-jurisdictional issues, the support and the tools required to carry those things out aren't following.

Mr O'Toole: That's right. Well, they have to.

Mrs Ross: Good afternoon. Thank you both for coming forward. I too would like to echo the comments of Mr Christopherson, that I think that the Hamilton Region Conservation Authority is a wonderful facility and does some excellent work.

A lot of your focus has been over the past number of years on acquisition and management of recreational properties. I would like to also ask the question—and knowing many of the council members in this area, I believe that they're very responsible people and take into consideration not just the environment but the needs of the community. I just wondered if you felt that allowing the municipality more flexibility would hinder the objectives of your authority.

Mr Stacey: I think it's a fair question, and it strikes to, I guess, the heart of what constitutes an ecosystem and whether or not political hats can be left at the door, as we say at the authority, and look at the watershed rather than how a particular development proposal may affect your municipality. I won't say it's a danger, but it's a reality that's always there, if planning was strictly left to individual municipalities, and that's of course why

there's move towards the regional official plans and so on, to take a look at planning on a wider basis.

The authorities, I think, feel that they still play and can play a vital role in bridging the individual political desires and wants of a particular council or council member as opposed to what would be better for the watershed. I have to say that on my years in the authority that the politicians who are on the board have done that largely, but there are cases where it's very difficult for them to separate their political hat from their conservation hat. So I think there is still a need for a watershed approach to planning and I still think there's a need for some provincial guidelines so that there's some consistency across the province with regard to certainly significant areas, wetlands, the Niagara Escarpment, for example.

Mrs Ross: On your comments on page 3 at the bottom, you said, "The draft provincial policy is based on minimum standards...." These are minimum standards, and that doesn't mean that conservation authorities have to abide by those. They could make them better. The municipalities could increase those standards; they don't have to leave them at the minimum.

Mr Stacey: I think the thrust is the same. As Ms Ross has said, we would like perhaps some indication in the final document that the province would encourage municipalities to go beyond the minimum standards rather than just leaving it at that because in fact, many will only institute minimum standards. Certainly with the pace of development in urban areas, I think our argument is that we need more than just minimum standards.

1650

Mr Bradley: My first question is around the speeding up of the process. There's a great eagerness to make sure the developers can get their developments through quickly. Did you have a 70% cut or something? What was your cut, first of all?

Mr Stacey: The conservation authorities' budget share of the MNR transfer payments will, in fact, be 70% over the two years. It depends on what share of the provincial transfer payments are represented in each authority's budget. In our case, actually it's not that large, although it still represents a cut of several million dollars when you count in the municipal share.

Mr Bradley: The consolation for me is that I will have a tax cut while you're cutting that back so I'll be delighted, of course. How can you analyse properly and comment effectively in a shorter time line when you're going to have far fewer staff to do that? How is that going to happen?

Mr Stacey: That's a strong possibility, certainly. Planning and hanging on to our land base are probably the two things that our authority have felt would be the last things to go. But perhaps Darcy might comment, since he deals with this on a daily basis, what impact he could see in his department.

Mr Baker: I think some of the immediate impacts that we're going to see are a great deal of transfer of provincial responsibilities down to the regional level. We're dealing with a region that doesn't have the staff expertise right now to carry out those responsibilities and we're trying to negotiate that with them. All of this is going to take a bit of time. With development pressures, if they do

come down that quick, we're going to be scrambling, quite honestly, to meet a turnaround and a response time.

The immediate response, I think, would be that an authority will be objecting to a proposal without more detailed information, and it's not going to result in a quicker process; it's going to result in, I think, a more combative process unless we get the rules spelled out for us ahead of time. And that's something that Bill 20 itself and the draft policies don't do, but the implementation guidelines or the supporting documentation is going to have to provide something a little clearer than what we've got here today.

Mr Bradley: There are some people who believe that the concern about wetlands is something that is held by a few granolas, as they would call them, or the people who live in another world in terms of their concern for the environment. What, in your view, are the consequences of unwise development—which I foresee happening as municipalities desperate for any kind of assessment will start allowing or will be tempted to allow developments they shouldn't—what are the consequences for us all if these wetlands are impacted adversely?

Mr Stacey: I should add to Darcy's comments that we enjoy an extremely good relationship with our region and the planning departments in it and certainly we're not averse to having to do that on a more cooperative and collaborative basis. Our region has a very extensive ESA component to protect sensitive areas including wetlands. Many regions of the province don't, however.

In answer to your question directly, wetlands are a cheap flood insurance. They're much cheaper than capital projects such as dams or any other man-made structures to control flooding. And certainly as a cost-effective means of securing the security of life and property in this province, on that basis alone, let alone for the protection of flora and fauna, I would argue: Don't allow wetlands to continue to be degraded. We have very few wetlands left, in terms of predevelopment, particularly along the Lake Ontario shoreline itself. So certainly from an economic cost benefit point of view, they're cheap flood protection. Fill in more wetlands, push the development into the flood plains, you're going to have more flooding and you're going to have much higher risk to both life and property. That's not a guarantee, but certainly that would be my prediction.

Mr Bradley: You and others who have made presentations today and those who will make presentations tomorrow should be aware that the committee will begin, in fact, its clause-by-clause analysis of the bill and complete the bill by the end of this week. Would you prefer to see a circumstance, particularly since many of the employees are on strike at this time, where the government and opposition and everybody had more time to take into account, analyse and perhaps formulate amendments based on your presentation and others—would you prefer to see that circumstance where the clause-by-clause consideration was postponed instead of moving forward with undue haste?

Mr Stacey: Darcy referred to some implementation policies that will have to come out of this to actually put it into effect. I'm not sure whether this clause-by-clause affects that or just the bill itself, but if you rush through

the bill, as you suggest, then certainly take more time on looking at the implementation guidelines that will come down subsequently. As an association, we still have a draft proposal which we referred to here. I'm sure there are other organizations in the province that are scrambling to get those draft statements made into something formal and certainly we would hope the committee or the government would have time to include those in their deliberations.

Mr Bradley: Would you prefer to have or do you think it would be advisable to have available a finalized edition of the provincial policy statements before this bill is passed so that open-minded, objective members such as I can look to the bill and say, "Shall I support the bill or not support the bill?" Of course, if you had very strong statements, there may be a temptation to support this kind of bill. Do you think it would be advisable for all of us in Ontario to have available the specific policy statements before this bill passes the Ontario Legislature?

Mr Stacey: I guess, yes. I'm not sure that's also answering the question whether you're open-minded or not, but I'll leave that up to your committee members to decide. But certainly I would—

Mr Bradley: There's a majority here; watch it.

Mr Stacey: I think any group would like to take a look at the draft bill and have time to study. I'm not sure what the haste is here, quite frankly. I don't think the pace of development will speed up in Ontario because this bill is passed next week or even next month. I think there are some far more serious reasons why the economy of Ontario is not progressing as we all would like it. The planning issue and aspects of planning are only a very small part of that.

Mr Bradley: The Ministry of Municipal Affairs and Housing is going to be the only ministry which can appeal developments to the OMB, therefore cutting out the Ministry of Environment and the Ministry of Natural Resources, which are the two that you would be most concerned with. Would you prefer to have that option available to the Ministry of Environment and the Ministry of Natural Resources to register their objections directly with the OMB rather than simply going through the Ministry of Municipal Affairs and Housing, which has a different mandate, to say the least?

Mr Stacey: I'm not sure what organizational scheme the government is working on, but to answer your question, I would prefer that all three ministries do something collaboratively. I think that's the answer. The problem we've had in the past is that we've had any number of ministries making comments and often at cross-purposes. So I think, in answer to your question, rather than one ministry, have all affected ministries submit their comments at the same time.

The Chair: Thank you both for taking the time to make a presentation before the committee today.

HAMILTON-HALTON HOME BUILDERS' ASSOCIATION

The Chair: Our next presentation will be from the Hamilton-Halton Home Builders' Association. Welcome.

Mr Larry Szpirglas: My name's Larry Szpirglas and I'm the past president of the Hamilton-Halton Home

Builders' Association. I, along with my associate, Adi Irani, who is a long-serving board member, am here today representing our association. We're pleased to be here to respond to the government's enactment of Bill 20 respecting the streamlining of the land use planning process and protection of the environment through the amendments that are being considered by the government.

The Hamilton-Halton Home Builders' Association is the voice of the residential construction and renovation industry in the Hamilton and Halton areas. Our membership is comprised of over 400 member companies which are involved in every aspect of residential construction, development and building, and it is inclusive of many of the service professionals such as planners, engineers, financing and lending institution professionals, insurers as well as the many trades and suppliers involved in our industry.

We are aware that we will not be the first home builders' association to appear before this committee, and therefore our presentation will be relatively brief, since we will not be repeating in detail the comments made by our colleagues, and I'm referring to the presentations made by Ian Rawlings on behalf of the Ontario Home Builders' Association and by Tom Stricker and Peter Langer, who appeared before this committee on behalf of the Greater Toronto Home Builders' Association.

1700

Let me simply reiterate some of the comments that they made with which our association is in agreement. Philosophically, we believe as they do that the intent of Bill 20 is to ensure that we can efficiently manage growth while balancing the interests of our industry, our consumers and the public interest at large. We believe that certainly within the last 10 to 15 years Bill 20 represents an honest attempt towards accomplishing these goals.

We also believe that Bill 20 will help those of us involved in this industry to move forward with a greater degree of confidence with respect to the land use planning, development and residential construction process. Quite frankly, we are encouraged by most of the amendments that are suggested within Bill 20. We view it as lending integrity to the planning process and in so far as this contributes towards a sense of confidence in the stability of the planning process, we are appreciative of it.

We certainly agree with the comments made by Peter Langer of the Greater Toronto Home Builders' Association in which he mentions that the process needs to be streamlined and the inherent costs need to be reduced. We also agree with the comment that Bill 163 did not achieve these objectives, nor do we believe that there was a consensus with the previous government regarding Bill 163's ability to achieve these two aims; in fact, quite the contrary. Our view has consistently been that Bill 163, if left unchanged, would have driven up costs precipitously and would have severely restricted consumer choice with respect to housing types. We agree with Mr Langer's assessment that the position of the home building industry was consistent with that of the Association of Municipalities of Ontario, the Urban Development Institute, the Ontario Home Builders' Association, the Board of Trade of Metropolitan Toronto, the Ontario Chamber of Com-

merce and the Canadian Bar Association in its opposition to Bill 163. We also agree that if there was a broad consensus, it was a consensus against these measures.

We believe that Bill 20 will streamline the process and it will balance competing interests and that there is still a plethora of legislation and policy left intact to ensure that the public interest is protected. I will not repeat all the examples of where this is the case. All of you are aware of the capabilities inherent within the current system. I would now like to turn this presentation over to Adi Irani.

Mr Adi Irani: Generally, as Larry has outlined, we are in support of the changes proposed for the Planning Act but specifically we support the following:

(1) Replacing the phrase "be consistent with" with "shall have regard for."

(2) Eliminating prematurity as a ground for dismissing appeals to planning matters.

(3) Eliminating the requirement for public meetings for plans of subdivision.

(4) The shortened time frames for responses.

Our association has had a good working relationship with the region of Hamilton-Wentworth on all development-related matters. In fact, together with the region, the home builders' association was involved in an overall review of the planning process for development applications with the intention of streamlining the process. As part of the ACT program, ie, the affordability and choice today program, we were successful in obtaining a consensus with all the area municipalities on a process for development applications that provided a consistent, streamlined approach to the one-stop shopping principle.

I'm sure that the region will be making or has already made presentations to you, but through our discussions with them, I'm aware that regional council has endorsed three of the four points that I mentioned earlier, namely, the "have regard for" clause, eliminating public meetings for plans of subdivision and the shortened time frames. We have agreed to disagree with the fourth point regarding prematurity as a ground for dismissing appeals.

The proposed Bill 20 will go a long way in its present form to streamline the land use planning and development process, and this will result in encouraging economic growth and will allow housing units to become more affordable. It also allows the municipalities a greater flexibility in dealing with the growth of their communities and it brings the planning decisions closer to home and therefore closer to the people who will be most affected by it.

There is, however, one area in the bill that we would like you to review, and that's this: Sections 9 and 13 of the bill have a provision for a direct appeal to the OMB. While we welcome the fact that any decision can be appealed to the OMB, we're also wary of the fact that such a procedure pre-empts any mediation that could take place. Again, I come back to the example of what we experience in this region. We have been fortunate that the region is very proactive in mediating disputes so that unnecessary OMB hearings are avoided.

Our recommendation would be that the OMB initiate or delegate some form of alternative dispute resolution mechanism so that mediation takes place before a hearing

is required. Time frames to be initiated shall be detailed, and we suggest within 15 days, so that the process is not unduly delayed. I turn it back now to Larry.

Mr Szpirglas: With regard to development charges, we are appreciative of Bill 20's direction, which inhibits municipalities from increasing their current development charges while providing them with the power to extend their existing bylaws indefinitely, pending a review of the act.

Our industry supports the review of development charges, and particularly the emphasis on municipal services to be included in that review, and a higher degree of accountability regarding the use and monitoring of funds collected through the Development Charges Act.

Our industry has always accepted that new growth should pay for basic necessary services. We remind the committee that as home buyers who pay the development charges and as a voice of the new home buyer, we want to make it clear that home buyers should not pay more than their fair share. We are certainly looking forward to participating in the review process and we believe that it will be a useful one.

One of the major issues which we believe has been overlooked has been the combination of impacts that result from legislation in difficult economic times and how that bears on the domestic market and on employment opportunities. I'm sure you are all aware of the tremendous potential that the home building industry represents to our economy. It is a truism that a successful home building industry creates employment, it generates jobs, it increases the tax base, it takes people off welfare and other social assistance programs, and that is unquestionably a net economic benefit resulting both from residential and industrial construction activity.

We believe that the provisions of Bill 20 and our observations regarding the Development Charges Act are consistent with other presentations you have heard and we strongly endorse their inclusion in your considerations and ultimately in the recommendations that flow from it with regard to these two areas. We look forward to participating in the review process.

We believe that we need to get our economy back on track, that our industry is a substantial player in that regard and the releasing of our industry through the reduction in undue taxation which has been placed on it by way of Ontario Building Code changes, planning delays, overly extravagant development charges, education levies etc can only create a positive economic thrust. Since 1989 these charges and taxes have grown and added anywhere from \$25,000 to \$30,000 per single family home in this region and greatly impeded the continuance of this industry.

We believe the Harris government is moving in the appropriate directions and we strongly support them in this regard. Thanks for your consideration. We'd be pleased to answer any questions that you might have.

Mrs Ross: Thank you both for coming. I just want to ask one brief question, because I know other members want to ask questions. It has always been said that the housing industry is sort of a benchmark, that when housing is growing, the economy is growing. Would you say that that is still the case? I'm referring to the fact that

housing, of course, has not been growing for a number of years; in fact it's decreasing. But would you say it's an indicator of the economic viability of this region and this province?

Mr Szpirglas: Yes.

Mrs Ross: You've said very clearly that you think Bill 20 will help the housing industry by making the planning process much quicker, more streamlined, more cost-efficient. On page 2, you were talking about streamlining the process and balancing competing interests, and then you stated, "I will not repeat all the examples of where this is the case." Can you explain to me what you mean by that exactly?

Mr Szpirglas: Let me just take a quick look at it. As a general statement, we believe that under Bill 163, although the time it would have taken to deal with what has been defined as a complete application might have been less than what occurred under the old system, the system before Bill 163, getting that application complete in the way that was intended by Bill 163 would increase the time on the other end to a point where the feeling in the industry was that it would be more onerous to work under that system than under the system that prevailed prior to Bill 163.

Mrs Ross: I'll pass it on to somebody else. I know there are other people wanting to ask.

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Mr Carr: Thank you very much for your presentation. I was wondering if I could ask something a little bit further than Bill 20. You talked about some of the provisions being good for your industry. As well, there will be some other changes that will be happening over the next little while including a major tax cut, which I feel will probably stimulate some consumer demand. Interest rates are starting to come down, and so on. If I could take the liberty of asking a broader question, what do you see happening over the next few years for your industry, better or worse? You've been hard hit over the last little while. What do you see happening to your industry over the next few years?

Mr Szpirglas: What picture would you like me to paint, Mr Carr?

Mr Carr: The real one.

Mr Bradley: He's the government. Paint a good picture.

Mr Szpirglas: I think, to be honest, even in the best of times it was difficult to forecast, and in these times it would be dishonest to try and look beyond a year. You all must have seen the CMHC statistics that were provided last week, and it's not saying that we're going to have a boom year this year.

I think that, notwithstanding interest rates and some of the positives we've seen recently, there's a fundamental problem that has to do with jobs and job security. To the extent that government legislation and levels of taxation can help sustain employment, can help people feel secure about employment, I think that's really the most compelling situation that we have to put in place.

Mr Carr: So the big barrier right now is consumer confidence, and what is your feeling that a tax cut will do for consumer confidence?

Mr Irani: If I can take that, I think the tax cut will give some more money in the pocket of the consumer which will increase the confidence of trying to spend that and will give a boost to the housing industry. Any money that is out there has got to do that.

But I think what Larry in his response forgot was that something we need is the affordability of the houses. Any time when you're having undue delays, you're adding to the bottom line of the cost of the house, and that is what will essentially help to promote the housing construction business. That's what we see. I see a general trend in which there will be a slow recovery at first, but as confidence builds it'll become better and hopefully we'll have something that is more realistic than what we didn't have all these last few years.

Mr Carr: So in your opinion we're heading in the right direction. There has been some contrary opinion, obviously, that what's going to happen is that there's going to be a tremendous amount of development, that municipalities won't be protecting against some of this development, and that has come from various people who are coming forward. I wanted to give you a chance to rebut some of that, when people are saying, no, we need more control over your industry. What do you say to those people out there—and this isn't me saying this, but other people that are saying that your industry hasn't been doing a very good job—what do you say to those people?

Mr Irani: I think Larry said in his presentation there is already sufficient legislation in place that will protect those interests. What I see happening is the provincial government relinquishing some of the control it has on the planning and giving it back to the communities, to the region or the area municipalities, and this is where there's more control at the local level.

They are more able to balance the needs of the community than having a provincial agency that says, "This shall be what it is and you shall not deviate from it." At a local level they can judge: "Are this interest and that interest there in conflict? Who gets to have? What is the balance? Can we mediate something, find common ground and come to it?" So I don't think there will be a mass destruction of the environment or anything like that. I think the industry will be regulated through local government.

Mr Bradley: Mr Carr allowed me to deal with the tax cut, which is rather interesting. Would you say that the provincial deficit is a problem for our province to tackle?

Mr Irani: If I may, I think the provincial deficit is a problem generally to all governments and to all people.

Mr Bradley: Do you realize that the Ontario government is going to have to borrow over \$20 billion and pay over \$5 billion in interest in order to give you and me money to spend? Do you support a tax cut that is based on borrowing new money and adding over \$20 billion to the provincial debt so you can give the money back to me?

Mr Irani: I'll take that one, if I may. I'm not an economics major of any sort, but what little I know about economics is that if you give a tax cut and you spur growth and you spur economic benefits to the Ontario economy as such, you get increased revenue from it. I

think that is the main philosophy of it. As I said, I'm not an economics major, I'm not an accountant; I'm just an engineer and I'll plead that case with you. But if you want to expand on that as a builder, Larry, go ahead.

Mr Szpirglas: I think that within our province, and this is not a political statement by any stretch of the imagination—

Mr Bradley: No political statements in here anyway.

Interjections.

Mr Szpirglas: I got that from your question. I realize that. Essentially I'm going to go back to one thing, that I still strongly believe we have to find a way to generate sustainable jobs. To the extent that tax cuts would create revenue coming into the system and allowing people to spend, I think that's good. One of the things that we've been able to do in the industry, although it didn't start out this way, is that we can see better than most other industries the cumulative impact of taxation. We can see what happens when you've got a GST and you've got levies and you've got all these other things that happen at all levels of government, and the impact on housing is astronomical. We're using a figure of \$25,000 to \$30,000 of cost since 1989 that's been added to the price of a new home. Now, that isn't strictly taxation within Ontario; that's obviously the GST and a variety of other levels of taxation.

I would say that aspect of how you generate revenue or cut costs, the ability to do anything related to that, is a pretty dead issue in terms of doing anything that will generate economic wellbeing. We've certainly witnessed plenty of cuts from the Harris government recently. We've been cutting like crazy. I think that in terms of creating confidence—that's one of the major issues that we're dealing with here, how to generate confidence—you've got to give a little back at this point and that you have to motivate people to move out and to spend and to regain some lost confidence.

Believe me, if you were in my shoes and I think if you were in the shoes of most retailers—I'm a builder as well as a land developer, and as a builder I have probably the largest retail item there is. People shy away from it because they're concerned about whether they're going to have money in their pockets and whether they're going to have jobs. I think that's really the critical issue. Whether it was the NDP or the Conservatives or the Liberals, that's the issue we face today.

Mr Bradley: So you would favour a tax cut even though we're going to add over \$20 billion to the provincial debt to give out a tax cut?

Mr Szpirglas: No. I would favour measures that are going to stimulate the economy, that are going to get people to feel confident about the economy. Do I favour adding debt? Well, I don't know. If you take a look at the net reduction, does it meet the government's targets? I don't know.

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Mr Bradley: I'll go to another area. In your experience, would you rather deal with local politicians and officials or would you rather deal with provincial politicians? I'm told by the government this channels decisions back to the local area. Would you rather deal with local politicians than awful provincial bureaucrats?

Mr Szpirglas: What I would like to do is have a system that has integrity to it, where I can't get blackmailed when I go into a city hall, where I don't have tremendous time delays when we have to wait for a provincial ministry to respond. I think there are difficulties inherent depending on whether you centralize or decentralize, but I would say I'm fairly confident that at least at a local level you have the ability to talk to the local politicians in a meaningful kind of way, you have the ability to argue your case in a local arena, and probably quite properly that's where the decisions should be made.

Mr Bradley: I have a question about development charges. I take it that the development industry is—"ecstatic" perhaps is too strong a word—very supportive of the Minister of Municipal Affairs now having the right to restrict municipalities in terms of their new development charges, even though at the same time the province is cutting its financial support to municipalities and forcing them to find the money somewhere else to provide their services. You're still ecstatic about that, are you?

Mr Szpirglas: Mr Bradley, the only thing I can say is that probably they're just about as ecstatic as the NDP government was when it talked about the transfers from the Canadian government. It's all a trickle-down situation. Nobody's happy with that scenario.

Mr Bradley: Except they're at the bottom. They have nowhere else to go except locally.

Mr Szpirglas: Yes. It stops somewhere, doesn't it?

Mr Bradley: So they then are compelled to go to service charges, to development charges to be able to build those schools for those houses they're building in the middle of Beamsville for Toronto people.

Mr Szpirglas: But it's not just the children who come out of those new homes who use those schools.

I think on the issue of the education development charge, one of the great objections we have to it is that it is not a fair and equitable treatment. If you will recall, it was your leader who basically said, prior to being elected as the Premier of this province, that he in fact would not implement an education development charge, and subsequently your government did so. I make no comment on whether that was a necessary move or anything else but I will say that our industry certainly took strong exception to it, as witnessed by the constitutional challenge. That's what I have to say about the education development charge.

I think when you use examples like that you have to be careful, because you have to remember that old neighbourhoods turn over and you have older people moving out of those neighbourhoods and younger people moving in with families. The existing infrastructure basically wasn't necessarily designed to handle that load in terms of what a modern school needs to look like.

Mr Christopherson: Thank you very much for your presentation. In your presentation, you do talk of supporting the change from "be consistent with" to "shall have regard to." We in my party have argued that this is not strong enough and does not leave enough tooth in the provincial enforcement mechanism to adequately support a policy that would be applicable across the province.

The government has argued that indeed it is strong enough. Do I assume from your comment, that you support it, that you support it in part because you believe it is strong enough?

Mr Irani: Yes, we do. The clause "shall have regard for" has been used in the Planning Act since about the early 1970s, I believe, and there is documented precedence on that clause which holds up in the OMB. All decisions are based on that.

When you get to the phrase "be consistent with," we as an industry felt that it was too strong, to be quite honest, and it didn't give the flexibility of meeting all the provincial guidelines that were in there. When you had your policy statements, you could have met three out of four of them and the third one would have been in conflict, and then you could not have done anything because, which one do you choose? You have three that you adhere to and a fourth one that you don't, and who's there to see where the balance is?

This is where that "be consistent with" fell down. It broke down in that instance. The "have regard for" took into account that yes, you had regard for it; you did what was best under the circumstances and you found the balance. That's what we feel was good previously and we feel is good now.

Mr Christopherson: That's pretty much the answer I expected. What I find passing strange is that if you do believe that the new language is strong enough to enforce the provincial policies, then may I ask why you're comfortable in supporting Bill 20 without knowing what those policies are going to be? The policies have not been finalized; they're only in draft form. It would seem to me that if you believe there was enough tooth to enforce the policy, that that connection was strong enough, then you certainly would be pounding the table, I would think, wanting to know what is that policy before you agreed to support Bill 20.

Mr Irani: When I made that statement, I also said that there have been precedents as to what "have regard for" implies. We fall back on historical precedents. When you have a policy, and you can have a very strong policy—I don't disagree with having a strong policy on any subject—so long as you will have regard for it and that can be worked out at a local level to see what is good to find a balance between the conflicting policies, we can work with it.

I think we are quite aware there have been draft policies that have been circulated, and Larry and I have been working with those, with the OHBA, and we're quite confident that we will be able to work with those policies and give it teeth so that the provincial interests are protected.

Mr Christopherson: I would suggest to you, with great respect, that you also feel it's not nearly as strong as the government might suggest and that therefore you don't need to worry as much about the policy because it's not that strong. I therefore would ask you, do you not think this process would have a lot more integrity if indeed we had a finalized policy in front of us before we were dealing with Bill 20?

Mr Irani: If you wanted to have a policy in place, we could work with that as well. I guess what I'm trying to say is that—let me come back to it.

Mr Szpirglas: Let me say it's no more or less vague than the guidelines related to Bill 163 were when they were introduced. I think we have a far greater degree of comfort with the precedents and with the direction that Bill 20 is taking. I think from that perspective, and I imagine there will be sufficient flexibility to work out any of the major issues or if there are any major issues, we'll at least be able to relay that and on our industry's behalf will be able to make our representations in other forms and other manners.

Mr Irani: You've brought my train of thought back. In the old policies we had implementation guidelines which were at least a few hundred pages and which were rigid, so we could not implement them. What I've seen of the policies of late is that they give you that implementation in very simple, very straightforward and very direct language, and it doesn't say that you don't do what is prescribed before. All it says is that the province is essentially handing the need of doing planning right down to the local level, where it should belong in the first place.

The Chair: Thank you gentlemen, for taking the time to come before us today and make a presentation.

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SOCIAL HOUSING AND ACCESS COMMITTEE

The Chair: Our next presentation will be from the Hamilton and Area Coalition of Tenants' Associations. It's actually an umbrella group by the name of Social Housing and Access Committee which will be making the presentation. Welcome to the committee.

Ms Jackie Gordon: As was stated, this presentation is by the Social Housing and Access Committee. It's a coalition of housing providers, housing services, tenants and other people in the community who are interested in the provision of affordable housing in our community, and access to affordable housing. The committee has been around since the mid-1980s in various different forms. We've been very involved with the issues that Bill 20 addresses, from the intensification battles that have been fought in this community to issues around how you make affordable housing for a community.

We'd like to thank you for the opportunity to appear before you today to tell you how we feel about Bill 20. I think our brief goes through pretty much who we are and explains; there's also a membership list attached at the back. I would like to tell you a couple of things that we believe and believe quite strongly.

One is that we believe that housing is a right for all individuals and we believe that safe, secure, affordable, appropriate and accessible housing should be available to everyone in Hamilton-Wentworth. We're committed to providing an effective forum for education and advocacy around social housing and affordable housing issues to encourage and facilitate that kind of housing development in Hamilton-Wentworth.

As I've said, we've been very involved in the intensification battles that have been fought in this city, and we've developed extensive expertise in housing provision and access.

There are some parts of Bill 20 that we are able to support in principle. There are some things that, when we

hear about them, sound like really good ideas, but we'd like to be able to have more input and talk to government about, because we think there are some things that are on the right track there. But we do have a number of concerns about the way that those things appear to be going to be implemented.

Those concerns basically fall into three areas: One is that Bill 20 appears to exclude the public from the planning process.

Another, because of our concern with affordable housing, is that we're very concerned that apartments in houses will be made illegal in municipalities and that exclusionary zoning provisions will be brought in to keep tenants and low-income individuals out of certain communities. We really don't want to see that kind of NIMBY attitude in our own communities again. We think the province has a very strong role to play in ensuring that people with low incomes and tenants have access to housing in every community in this province.

Our third concern is around the segregation of social and environmental concerns from the broader planning process, and the withdrawal of the province from what we see as its planning responsibilities.

It might probably be a good idea to tell you some of the things we do like first before we go to the others. We recognize that there's a goal and an intent here to eliminate duplication in the systems, one of the examples being that Bill 20 would remove the requirement to include the last day for filing an appeal from the notice of a zoning law passage. We understand that requirement already exists in the regulations, so it doesn't seem necessary to have it twice. However, we feel very strongly that that requirement does need to be somewhere. People need to know what the appeal time frames are, what the processes are. So we would like some assurance that it will remain in the regulations, if it's going to be removed from the act. It's one of those things that we can support in principle, to streamline and avoid duplication, but we are very concerned about what will happen.

We strongly believe that public consultation is essential to the quality of life in Ontario and that public access to the planning process will be limited by Bill 20. In fact, I was really surprised when I was reading the government's fact sheet to see that it's municipal leaders, planners and developers who use the land use planning system. It's our belief that everyone in Ontario uses the land use planning system, that we use it every day when we take our kids to the park, when we go to the library, when we buy or rent a home, and that the people of Ontario very much need to be consulted in this process.

The Sewell commission, which went for a number of years and involved consultation with, I understand, over 23,000 people and groups, seems to be reflective of that kind of consultation. It shows that people want to be involved in this and that it does matter to people. If there were 23,000 people who cared enough to have something to say about the land use planning system, I doubt that those concerns have gone away. I think people still care enough to talk about them.

We do recognize, however, that there's a real challenge around public consultation. In two places, the requirements for public meetings are being eliminated. We

would certainly agree that public meetings have never been the most efficient, cost-effective method of soliciting public opinion; however, we wouldn't like to see them eliminated until something else has been brought in to replace them.

There's not one public; the public is very diverse in race, age, household composition, income, ability, race, sexual orientation. We need to find some sort of process that allows everyone to have the input into the land use planning system that they need, so we would like public meetings to remain as the forum for public consultation, although we would encourage this government to take a role in developing better systems. We certainly agree that there must be better systems than the kinds of public meetings we've had where one group stands up at a microphone on this side of the room and another group stands on the other side and then they yell at each other. We think there's got to be a better system than that, but we're not quite prepared to throw it out yet.

We believe that the province has the responsibility to get involved in areas that are important to Ontarians, and those are issues such as housing and the environment and the systemic discrimination that we see will happen as a result of the repeal of the apartments-in-houses legislation.

We support having provincial policy statements to guide local development. We think that those are useful for a number of reasons. One is that it's a good idea to have a statement about why planning is being done, so that there is an actual plan to the planning process. The other is that there can be a vision of what this province needs and what services need to be provided. Local planning authority is, of course, very important; it's at the local level that we live in our communities. However, strong policy guidelines are important for the communities that are doing that planning as well. I can talk a little bit about that later probably.

We supported the environmental awareness that was in Bill 163 and we're sad to see that that doesn't seem to be in Bill 20. It's not growth itself that is bad for the environment; it's badly planned development that is bad for the environment. It's our belief that planning and environmental concerns can be integrated so that both are supported. We see in Bill 20 that environmental concerns are being thrown out in favour of opening the door to more urban sprawl. An example of that would be opening up the tender-fruit lands in the Niagara Peninsula to development.

But probably the issue that's nearest and dearest to our hearts is the apartments-in-houses legislation, the Bill 120 section, and we're very saddened to see that that would be repealed. As I said, we think that housing is a right in Ontario. We have seen municipalities in this area and across the province use exclusionary zoning to keep people out of communities. Those people generally tend to be tenants. Tenants in Ontario are often young people who are just starting out on their own and may like to stay in their home community while they're getting started. Zoning that doesn't permit apartments in houses often keeps those people from living in their own community while they're starting out. At the other end of the spectrum, many tenants are seniors who have given up

home ownership and the work that goes with it and then find it difficult to be able to stay in their own community because of exclusionary zoning practices.

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Bill 120 allowed communities to increase available housing that relies on existing development and infrastructure. This made sense environmentally and economically. Accessory apartments which meet social needs are not legal unless the zoning permits, and to allow a municipality to zone an area of the community as out of bounds for a particular group of Ontario citizens is a kind of systemic discrimination that we certainly could never support and couldn't accept. We've been dealing with this issue in Hamilton for a number of years now and have always said that we believe that tenants should be able to live in every community in this province.

One of the things that happens when accessory apartments become illegal is that the people living in those apartments lose their rights as tenants and the homeowners lose their rights as landlords. We certainly wouldn't want to see that happen to people either.

Bill 163 has only been in effect for a year—not even a year yet. Many of the applications that are being processed right now are still being processed under the old rules. So we're not sure why it's so necessary to change the Planning Act right now, before we know what the impact of Bill 163 is. We would like to see the kind of consultation process that went into Bill 163. As I've said, we believe Ontario citizens were concerned enough to consult in great numbers on Bill 163 and we'd like to see that kind of process again.

I think a Planning Act is something that evolves over time. It changes to meet our social and our structural needs as those needs change. It's not something that we should be changing so quickly. We don't know if this system works or not. I can't sit here and tell you that we know that the existing system works and I wonder how anyone could have sat here before you and told you that they know it doesn't work when it hasn't had time to be working or not. It's not that we're saying get rid of what we've got; we're saying let's work with what we've got, see what's working, see what's not working and develop a consultation process that allows everyone in Ontario to participate.

Mr Bradley: Looking at the significance of the provincial statements that are referred to in this legislation and are of great interest to everyone, the bill, as I see it, will likely pass before we see the final version of the provincial statements. This legislation will be put into effect on the faith that somehow the statements are going to be reflective of what most people in the province would like to see. Do you think it would be advantageous to delay the passage of this legislation until such time as the provincial statements of policy are available in the final version?

Ms Gordon: Absolutely. As I said, we don't see the need to rush changing this legislation. As I said as well, it's not only seeing the final policy statements, which of course would be important, but that there be a process that the people have input into those policy statements, to see what it is that people want the land use planning system to do for them, how they want it to respond to

them, how they should be able to access it. I don't think that those statements can be developed simply by government or bureaucrats alone. I think there needs to be a public consultation process to develop them.

Mr Bradley: I am a bit surprised that they're not proceeding in that direction, because it would make logical sense that they should do so, but there's always a haste that governments want, I suppose, in areas in which they're particularly interested.

I'm interested as well in the public meeting. I used to sit on municipal council, for almost eight years, and so I have some idea of how municipal councils work. One of the initiatives that was brought forward somewhere along the line was the opportunity for a public meeting before a subdivision was proceeded with, and sometimes people would show up at the public meeting and sometimes they wouldn't, but there was the opportunity there.

Recognizing what you said about sometimes they become somewhat confrontational, do you believe that on balance, however, it would be wise to have a public meeting so that people can come, usually with the council of course in attendance, and make known their concerns at an early stage so perhaps those concerns can be resolved?

Ms Gordon: Yes, we do. Right now, as I said, we don't see public meetings as being the most effective method of public consultation, but we recognize that there's a role for them, and we don't have anything better to replace them with right now.

Right now, to actively and effectively participate at a public meeting, you have to be able to read. You have to have been able to read the notice and you have to be able to read and speak English to participate at the meeting. You have to be able to not be intimidated by large groups of people. There are a lot of skills that are required to participate in a public meeting that many people may not have. So we would like to see some alternative processes developed to allow people to participate, and until those processes are developed, yes, we would like to see public meetings maintained at every stage in the process.

One of the concerns we address in our brief is that there's a removal of an opportunity to appeal after a committee of adjustment, in the case of the city of Hamilton, makes a decision. We are very opposed to that. We think there need to be appeal mechanisms throughout the whole process, especially with shortened time lines. It's quite possible that someone could be out of town or in the hospital for the short period that was available for public consultation.

Mr Bradley: Do you agree with the government now permitting only the Ministry of Municipal Affairs and Housing to make an appeal to the OMB rather than any other ministry of government, such as the Ministry of Environment and Energy, for instance, that may have an interest in an old dump site that will eventually cause great problems, and problems which the grateful taxpayer of the municipality at large will end up paying for rather than the developer end up paying for?

Do you think it would be advantageous to continue the system whereby other ministries, such as the Ministry of Natural Resources or the Ministry of Environment, also have an opportunity to make known their views to the

OMB, to appeal to the OMB and not have to filter it through the people at Municipal Affairs and Housing, who aren't always quite as concerned about the environment as the Ministry of Environment officials? It sounds almost like a leading question.

Ms Gordon: The way we have addressed that in our brief is that we have no objection to OMB expertise being centralized in one ministry, but that it's essential that the circulation and technical review through all the ministries be maintained. There's a lot of expertise in those ministries, and while we don't oppose the creation of a new expertise, we don't want to see the existing expertise get lost.

Consultation between ministries is vitally important. It's not going to work unless it's circulated, and I perhaps naively assumed that's what the intent of this was, to centralize the expertise, not to exclude other people from the process. That's what our brief says, that we support the circulation and technical review regardless of who makes the appeal. I'm assuming that if the Ministry of Environment said, "It's absolutely essential that this not go through," or that this go to the OMB, it would then be the Ministry of Municipal Affairs and Housing's responsibility to take it to the OMB.

Mr Bradley: Don't count on it.

Mr Christopherson: Thank you both for your submission. I want to say very clearly and for the record that SHAC has played a clear and important leadership role in our community in terms of advocating for affordable housing. There's not a skirmish or public debate or challenge that they've ever backed away from. This organization is well known and well respected across our community, and I can only hope and would implore the government members to pay particular heed to the concerns they've raised in their brief, because they have a great deal of experience in dealing with the implications of government action or lack thereof on people and on families, and what it means out on the streets of our community. You've shown that once again with this presentation, and I thank you for that.

I want to ask you about the cumulative effect of a number of measures that the government has taken and what you think the future holds. We've already seen in the few short months this government has been in power a serious cut in funding to social assistance recipients. We've seen massive cuts in non-profit housing allocations that we had in this community that were worked on and planned for by a lot of community groups. Now with Bill 20 we see the provision for apartments in houses being yanked back. Can you give us a sense of what you think this means for those most vulnerable in our society, particularly as it relates to families and people here in Hamilton?

1750

Ms Gordon: I think the loss of apartments in houses means a real loss of affordable housing stock for people just at a time when their incomes have also been cut. I think it means that we're going to head into our next housing crisis. We're going to have a number of people who just can't afford accommodation in their own communities.

Frankly, we were surprised at the repeal of the apartments in houses section. It seems to fit with the government's agenda of having the private market provide housing, because that's what happens with apartments in houses: someone who owns a home decides they're going to create an apartment to help pay off their mortgage so that they can stay in that community, and it provides a unit for someone else.

I think the cumulative effect and the thing that was left out of that equation that you mentioned was the sale of OHC, where we're going to lose potentially 9,000 affordable housing units in this community that exist. We're very concerned about it. We see that as tenants' incomes are declining, the removal of rent controls—there are a number of questions we have about how people are going to be able to afford to stay in their homes. I can't guess, except to say that we are very concerned.

Mr Christopherson: You're right to add those ingredients, and I suspect there will be more along the way when we look at this government's agenda. But what happens to those who are most vulnerable, who are barely surviving and clinging on as it is, when these basic rights are removed? Literally, where do they go? What happens to these people?

Ms Gordon: I think we've seen some of that from Toronto, where shelters are filled with families for the first time rather than with single people. There's a whole new group of people who are homeless in this province. I wish I could say I knew where they went. I really don't know what's going to happen. We're wondering what happened to all the people who used to be on welfare and haven't got jobs, and where they've gone. I think we're going to see those things more and more and more in the next few months, and hopefully have some answers. At this point, we don't have answers.

Mr Christopherson: I suspect that what we're going to see is more and more people who are truly, truly homeless, and those whom you would consider to be destitute, who have no options. As the further cuts take hold at the regional level, there's just a lack of any kind of safety net, and people who were least able to survive day to day will not. We've seen deaths this winter. I suspect that this summer, with the warmer weather, those numbers will decline, but as the seasons click around again we'll begin to see the outcome of what happens.

Let me ask it this way: In terms of the major battles that used to happen in Hamilton—and I see a note that my former councillor colleague Don Ross is here. Welcome, Don. When I was on council we had some battles royal over NIMBY and intensification issues. We in the NDP managed to eliminate those battles by bringing in a fair housing policy that said that adding another unit to your home is a right you have as a homeowner, and for all the good reasons that you've said. Is it fair to say that there hasn't been the catastrophe in our community that a lot of people predicted?

Ms Gordon: Absolutely. I'm not sure there's been enough time for enough affordable units, apartments in houses, to be built during the short time that Bill 120 allowed them to be built, but certainly there haven't been riots in the streets over parking spaces, as was foreseen

at one point. Bill 120 addressed that with the tandem parking, saying it would be all right to have tandem parking in apartments in houses. Those are the kinds of things that we're afraid are going to come back again, that as municipalities respond to those things like people worrying about parking spaces and parking congestion and take away requirements for tandem parking and say you have to have two separate spots, those battles are going to start up again in the community.

Mr Christopherson: Thanks, and keep up the fight.

Mrs Ross: Hi again. We met I guess about a week ago, which brings me to my first question, which was around the consultation process. Would you agree with me that one of the ways groups such as yours can consult with the government is by meeting with members who represent the government?

Ms Gordon: I think that is true if there is access to the members—in many cases people don't have access to the members—and also, again, if people are able to meet with their member in the community perhaps rather than in a setting such as this, where people are more able to talk to their elected representative and feel a little more comfortable. I know a number of people who live in apartments in houses who would like very much to have the opportunity to tell you what their home means to them but would be very intimidated by it. I'm a little intimidated. They'd be a lot intimidated by a process like this.

Mrs Ross: But I think you would agree with me that there were quite a number who sat around a table and talked about the issues pertaining to not just social housing but many other issues. I would say that I would be more accessible probably, or as accessible as other members have been, so as a representative of somebody in the need of housing, their voice is being heard. I just wanted to make that comment with respect to the consultation process.

Ms Gordon: I think that's certainly an important point, but I wonder if a tenant off the street would have felt comfortable at that table we were at Thursday as well.

Mrs Ross: No. I understand your point.

Ms Gordon: I think it just requires so many different things. That's a very important part of the process, but we need to develop other processes as well.

Mrs Ross: Yes. I understand what you're saying. By the way, your presentation is excellent and it's quite a balanced approach that you've taken here. But I wanted to refer to page 11, where you said at the very bottom line, "Bill 20 appears to lessen their ability to be responsive to local need in this regard." You're talking about your local alderman. Bill 20 actually gives more flexibility to the local alderman to respond to the needs of the community, so I'm wondering why you would say that.

Ms Gordon: In this case, talking specifically about how there's no right of appeal once a council decision has been made on a zoning bylaw amendment—and in Hamilton's case, because we have council members on our committee of adjustment, under Bill 20, once the committee of adjustment heard the applicant and made a decision there would be no opportunity for appeal—what we're thinking is that if the two aldermen on the committee of adjustment are from the east end and the application involves the west mountain and the west mountain

alderman isn't around and the people in his ward are saying, "Come and see this," it's too late. The opportunity for appeal has been lost. So that's what we were referring to, especially in a city of this size.

It may not matter so much in a smaller town where you have fewer representatives and they're more intimately involved with the whole city, but in a city of this size I think it's the ward aldermen who know their own ward. Those are the people the constituents are going to go to and say, "Do something about this." But Bill 20 means it's too late. Once the committee of adjustment makes a decision, with only two aldermen on it, and aldermen who may not have all the information because they don't live in that part of the city, it's too late. There's no avenue for appeal. We think there should be appeal processes throughout.

Mrs Ross: I wanted to also comment on a couple of things as a representative of Hamilton West. You made a comment—I didn't write it down—to the effect that there was no outcry from people about basement apartments and that sort of thing. I'd like to say, as a representative from Hamilton West, I've heard a lot about basement apartments. I have a lot of people who are concerned about them because of the parking, because of what's happening to their community. Do you not feel that people who live in the community should be able to respond? The other thing I wanted to say was about basement apartments. We're not saying they're illegal. Any basement apartments that are there now will not be illegal, and it's up to the municipality to decide whether they want to continue.

Ms Gordon: I think that's part of our concern, that it be left up to the municipality. In Hamilton, we had the battles. There was a residential intensification study that the city of Hamilton adopted. Some really restrictive zoning bylaws were changed, like the one that said you couldn't duplex a house that was built after 1940, and all our development in this city on the mountain happened

basically after the Second World War, so it effectively meant that you could have no duplexes on the mountain. Those sorts of things the city of Hamilton changed, the city of Ancaster didn't. The city of Ancaster would have been perfectly happy to say, "No accessory apartments in our municipality," which meant that seniors who wanted to stay in Ancaster or teenagers who had just finished school and were moving out with their first job and wanted to stay in their community would have had to leave their community and go somewhere else.

So first of all, we do think the province should have the role of saying, "Yes, tenants in Ontario can live in any community and we will put in place planning guidelines and processes that will help them do that."

The other comment I wanted to respond to is sort of about complaints, to respond and say that the person who created that unit is a member of that community as well. The homeowner who decided to put a—

Mrs Ross: Well, no, not necessarily either. I might point out that a lot of the people who own those buildings are from out of town. They're Toronto owners who own those houses. That's why those people are objecting, because they aren't community people, because they are people who come from out of town and are just doing it to make money—not necessarily to house people, but to make money. It's affecting the other people in the community who don't have a say, who live in that community and have their children in that community. Their objection is that it's out-of-towners who are coming in and building the basement apartments. That's the objection I'm receiving all the time.

Ms Gordon: I think sometimes people make those objections without full information.

The Chair: Thank you both for taking the time to make a presentation on behalf of your association here today. We appreciate that.

With that, the committee stands adjourned until 9 o'clock tomorrow morning in London.

The committee adjourned at 1802.

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

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Bradley, Jim (St Catharines L) for Mr Duncan

Carr, Gary (Oakville South / -Sud PC) for Mr Maves

Conway, Sean (Renfrew North / -Nord L) for Mr Hoy

Galt, Doug (Northumberland PC) for Mr Tascona

Hardeman, Ernie (Oxford PC) for Mr Carroll

Ross, Lillian (Hamilton West / -Ouest PC) for Ms Fisher

Smith, Bruce (Middlesex PC) for Mr Chudleigh

Also taking part / Autres participants et participantes:

O'Toole, John (Durham East / -Est PC)

Pettit, Trevor (Hamilton Mountain PC)

Clerk / Greffier: Arnott, Douglas

Staff / Personnel:

Murray, Paul, research officer, Legislative Research Service

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ISSN 1180-4378

Legislative Assembly of Ontario

First Session, 36th Parliament

Assemblée législative de l'Ontario

Première session, 36^e législature

Official Report of Debates (Hansard)

Tuesday 27 February 1996

Journal des débats (Hansard)

Mardi 27 février 1996



Standing committee on resources development

Comité permanent du développement des ressources

Land Use Planning
and Protection Act, 1995

Loi de 1995 sur la protection
et l'aménagement du territoire

Chair: Steve Gilchrist
Clerk: Douglas Arnott

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
RESOURCES DEVELOPMENTCOMITÉ PERMANENT DU
DÉVELOPPEMENT DES RESSOURCES

Tuesday 27 February 1996

Mardi 27 février 1996

The committee met at 0902 in the Delta Armouries Hotel, London.

LAND USE PLANNING
AND PROTECTION ACT, 1995LOI DE 1995 SUR LA PROTECTION
ET L'AMÉNAGEMENT DU TERRITOIRE

Consideration of Bill 20, An Act to promote economic growth and protect the environment by streamlining the land use planning and development system through amendments related to planning, development, municipal and heritage matters / Projet de loi 20, Loi visant à promouvoir la croissance économique et à protéger l'environnement en rationalisant le système d'aménagement et de mise en valeur du territoire au moyen de modifications touchant des questions relatives à l'aménagement, la mise en valeur, les municipalités et le patrimoine.

MIDDLESEX FEDERATION OF AGRICULTURE

The Chair (Mr Steve Gilchrist): Good morning. This is our final day of hearings on Bill 20. We're pleased to be here in London today. Our first group making a presentation will be the Middlesex Federation of Agriculture. We have 30 minutes for you to divide as you see fit between presentation and question-and-answer time.

Mr Doug Duffin: Good morning and thank you for the opportunity to speak to the standing committee today. First of all, by way of correction, I guess, on your agenda I see it's listed as Doug Duffin, president of the Middlesex Federation of Agriculture. I am actually the past president of the Middlesex Federation of Agriculture. With me today is Hugh Fletcher, a fellow director on the board.

We're here today representing the Middlesex Federation of Agriculture. The federation is the voice of all the farmers in Middlesex county by virtue of our funding system, which is a series of grants and levies from the township. We are representative, I guess you would say, of all the farmers in Middlesex county, and try and act on their behalf for the betterment of agriculture both in matters of policy and in matters of public relations.

One of our concerns today is the long-term protection of agriculture. As the title of the bill says, it's called an act to promote economic growth and protect the environment, and it's our feeling that if the government is serious about meeting these objectives, it is necessary for the local municipalities to have more than just regard to the policy statements of the government. The major role of any government is to set the policy to ensure the long-term viability of its people.

It's sort of surprising that 150 years after the agricultural revolution, and with all the succeeding industrial revolutions, the computer revolution and that, agriculture is still the second-largest industry in the province in terms of revenue, next to the automotive sector. It's our feeling that perhaps it might even reclaim its first-place position, as the automotive sector is in a decline and the agricultural sector is enjoying an unprecedented boom as worldwide there's a growing class of people who are in want of a better standard of living, and with that comes more material need for food.

There are very few places left in this world which have the natural ability there is in southwestern Ontario to provide this food. We have the climate, we have the soil base and we have the technology to play a major part in the world in the future.

It's our feeling that there is need for more planning policies to protect the land base. As we've said, we feel that agricultural land is an industrial designation, the same on which General Motors would build a manufacturing plant, and that would be designated industrial.

We have concerns about the ability to sever agricultural land. In the policy statements there's talk of severing for retirement houses, farm consolidation and that sort of thing. I guess, by way of analogy, General Motors wouldn't be allowed to sever a house for a plant manager, if he chose to retire, out of the corner of its parking lot. It just doesn't make sense. The short-term gains to the company from not having to acquire more land and to the province from the revenue from that house are outweighed by the loss of the industrial use of the land, which in our case is farming, and by the conflicts caused by the house being located in an industrial area, and the conflicts are the same: smell, noise, hours of operation, the whole thing.

It's necessary for the government to look beyond the short-term requests, and they come about as agriculture is very cyclical in that there are boom-and-bust cycles, and at the bottom of the cycle the feeling among farmers is that if they can't make a profit from their land, they should be allowed to develop it by severing a house or whatever. But it's our feeling that the province should look beyond that to the long-term view. When the proposed change was made to move from "be consistent with" to "have regard to," the provincial policy statements, in our opinion this opens loopholes that any planning person can take advantage of.

In this case, precedents from past decisions, although municipalities seem to be moving towards a stricter planning role, would play a major part in the decisions of the planning. Also, the councils themselves in times of

cutback could be looking for more rural residential growth as opposed to growth in a built-up area where they have to provide sewers or even sidewalks and increase their costs. There's more net benefit to spreading this out.

Another concern of ours is there's no definition in the act or the policy statements of the priorities of agriculture relative to aggregates or environmentally sensitive areas. Often these will occur in combination, that an area proposed for aggregates is in agriculture now. A wetland could have a combination of all three or it could be a combination of any two at one time.

There's no indication either of what rate of loss of prime agricultural land is acceptable, whether it's 1% per year or 0.25% of prime agricultural land per year. It's necessary for the farm community plus the planning communities to know how to interpret this act just to know what the government is expecting, if they're in favour of preservation of all prime agricultural land or if we're merely a holding zone for future development. We feel these are matters of provincial interest.

Mr Hugh Fletcher: In regard to streamlining the planning system, this definitely needs to be done. There is a long time frame involved and a lot of the problem becomes how do you get input that is required from all the ministries, how do you get each ministry to kick in its input in a nice time frame. If you're doing development or you're doing changes even, then you would like to do sort of a one-stop-shopping deal where you go to one place and you know exactly what information you have to put together and you can get it there. You can put your information in there and you can receive your answers back from that place in a timely manner.

However, the changes in the bill that say only the Ministry of Municipal Affairs and Housing can appeal to the OMB leaves a lot to be desired. We don't know the mechanism of how the system is going to work. As it is right now, each ministry can appeal severance decisions to the OMB. As things change, we don't know how the input from other ministries will play in the picture. In our regard we're talking about the Ministry of Agriculture, Food and Rural Affairs. Is this a means to just gut the planning part of the Ministry of Agriculture, Food and Rural Affairs when they don't have a means of actually doing anything? These are questions we don't know and we need to know.

0910

If there is going to be long-term protection, long-term guidance for how planning goes in rural Ontario, then we need to know what that system is and how it's going to work, and make sure that every ministry has equal input to the end point. If, in fact, it becomes, at the very worst, where you just have a political thing where it's a cabinet decision to go to the OMB or not, then you have really devastated the whole system. As I mentioned before, time frames, time lines, and a streamlining of the system must be accomplished.

Appeals of minor variances: In areas where there are large municipalities you have a committee of adjustment, and that works great because then you can appeal to the council. In smaller municipalities, many times the council acts as the committee of adjustment. Therefore, if you

have an appeal, you're appealing to the council which just turned you down. You can be blocked by biases within that municipality. It presents a problem there.

In regard to provincial approval of official plans and official plan amendments, if you allow a municipality to look after its own house, then in certain cases it will be well run; in other cases it will not. You are saying that you have certain provincial minimum standards you want applied; then you must also make sure they are applied in that manner by doing official approval from a provincial level, ensuring that those minimum standards are enshrined.

Going back to "have regard to" and "be consistent with," if you have a municipality that has a long track record of consistent decisions within that municipality, a "have regard to" situation is fine. If you have a municipality that does not have a track record, that has been totally inconsistent in what it has been doing, then what you have called setting down minimum standards from a provincial level with a "have regard to" has not done anything. "Have regard to" in those cases means that book is the second down on the far shelf in the corner of the back library. I have had regard to that policy, I know where it is, but the consistency is not there, the minimum standards have been flouted because of previous inconsistency.

In conclusion, our view is that the preservation of a strong agricultural industry is more important to the province and its economy than the short-term revenue gained by loosening up the planning requirements. The agriculture and non-farm rural residential conflict continues to grow as people become more distanced from their agrarian roots. Instead of viewing the agricultural areas of Ontario as quiet, pastoral refuges from the city life, it is important that the province recognize farm land for the industrial area it is and value the contribution agriculture makes to the provincial economy.

I think we find ourselves in an incredible time right now. We're looking at major chunks of the economy being at an all-time low. We're also looking at a point in time where agriculture is hitting a peak once again. We have provided a strong, steady base for the province for a long, long time. If you look at the world economy, in the Third World nations we have a large middle-class sector being developed. That middle-class sector has more money to spend. That means their eating habits will change. That means there is more meat coming into their diet. More meat means more grain consumption to produce that meat. We are at an all-time low in commodity stocks in the world. At this stage, right now, 90% of the corn and soybeans have been sold. There is seven months to go before we have new stocks of corn and soybeans coming on to the market.

It's an incredible thing. People 20, 25 years ago were predicting that Canada would become the storehouse to feed the world, and we've gone through a lot of cycles, but with the stocks and indications as they are, this may happen. We are, however, at a point where we cannot increase dramatically the amount of production by adding extra fertilizer, by radically changing genetics of seeds. We can boost production somewhat, but we cannot double or triple production. The small amount of land

there to be used for agriculture becomes more and more important. It is very important to take the long-term view to preserve and protect that land, but when I say "preserve," I mean to make it a useful function, not just a green pasture setting for the view. Thank you very much.

The Chair: Thank you, gentlemen. You've left us four minutes per caucus for questioning, and this round will commence with the official opposition.

Mr Jean-Marc Lalonde (Prescott and Russell): A very interesting brief you've presented to us this morning. I thank you very much. There are some concerns I support with you, especially the second and fourth paragraphs of your recommendations, that Municipal Affairs and Housing is the only ministry that can appeal a planning decision. This causes concern for other groups like yours that we had in front of us yesterday. But the fourth paragraph, "allowed to exempt municipalities from the requirement that they get ministerial approval for their official plan and official plan amendments," definitely is of concern at present because you're saying agriculture is a very important industry not only for Ontario but the whole of Canada.

There are many points in there where I think the Ministry of Agriculture should be involved. Most of the time with an industrial park, you feel you could expand the economy of your municipality, but by having subdivision at no time does it give additional revenue to the municipality when it is only residential. Commercial, yes, but we have to look at the long-term planning. Commercial could be for a short time. When I say short time, it could be for 20, 30, 40 years. Agriculture could be there to stay for 100 years. Like you said, agriculture has been in business for over 150 years in Ontario.

What concerns me a lot too is that there's no way to appeal on minor variance. In a lot of small municipalities, as you said, elected members of council do sit on minor variance and, in turn, they make the decision. They foresee the development of a residential area as very important for the economy of the municipality, which isn't true. In this case it could affect your agricultural purposes in the long run. Do you think that where a council has an elected member on the minor variance committee, the people who want to object should have the right to appeal to the OMB?

Mr Duffin: I think it's necessary to remove the possibility of conflict, or at least the perception of conflict; if not appealing to the OMB, at least appealing to another outside body so there are two different bodies hearing the facts involved in the decision. Not necessarily in the larger municipalities, but in some of the smaller municipalities—and that's where agriculture is based, sometimes municipalities of 300 or 400 people—you're dealing with your neighbour, and if you had a conflict with your neighbour 20 years ago, they oftentimes don't forget. That's the situation you're in.

0920

Mr Lalonde: As they said yesterday, in a small community the developer goes to church with the members of council and they discuss the matter there. Then when it comes in front of them, it's very tough to refuse their requirement.

There was another concern of the group here yesterday, about the application for distance separation. At present

I don't think there is anything in Bill 20 that protects the farming community from having a subdivision in the near area. Let's say on the dust side, other sides, there's a lot of point that at present the Ministry of Environment did get involved. They are forgetting about the agricultural aspect of it. What's your feeling about the distance between the farming community or the farming livestock facility and the residential areas?

Mr Fletcher: There are minimum distance standards. Once again you're going back to "have regard to" as opposed to "be consistent with." There is also the consideration that if you're taking agricultural land and assuming an agricultural zoning is similar to an industrial zoning, you create those distances at the same time to some degree.

Some of the problems with small communities and agriculture is that we work hand in glove in a rural-urban situation. In many of the surrounding townships surrounding an urban area, they aren't really rural areas; they are a mixture. You have a lot of people moving out. You end up with councils which could be predominantly urban people, so some of your planning ideas tend to favour development and the separation of the two isn't necessarily as good as it could be or should be.

Mr David Christopherson (Hamilton Centre): Thank you very much, gentlemen, for your presentation. I was struck by your statement—and in agreement with it, by the way, I might preface this with—on page 4 where you say, "The change from 'be consistent with' to 'have regard to' the provincial policy statements opens loopholes that anyone wanting any planning decision changed in their favour could drive a truck through."

I agree with that, but it was interesting that the Ontario Federation of Agriculture said just yesterday in Hamilton, "We argued that the change 'shall be consistent with' was an ill-conceived example of excessive provincial regulation." A further quote, "The adoption of 'shall be consistent with' imposed a cookie-cutter approach to land use planning."

Being from downtown Hamilton and not at all suggesting I understand agricultural issues nearly as well as you do, I was struck by the differences and would be most interested in hearing your thoughts on why two groups might reach such diametrically opposed conclusions, and I guess I would also say why you were so quick to find the truth and the other group somehow managed to miss it completely.

Mr Duffin: I guess it's all a matter of perspective. The land we deal with in Middlesex county is 99% prime agricultural land, classes 1, 2 and 3, and from our perspective and the farmers who farm in this area this is the land that needs preservation. On the broader scale, province-wide, there are large areas which do not meet this qualification, and that is what the fear of the Ontario Federation of Agriculture was, that the blanket policy would be made that all lands need to be protected. In areas of marginal agriculture it's questionable whether it's important to keep a rock outcropping for purposes of agriculture or whether it's allowable to have a house on it provided all the other requirements are met.

To go further on that, it again goes back to the interpretation. If we are strictly talking about prime agricul-

tural land, there's no problem, but if there are scales of mapping that say, "This whole township is prime agricultural land" when in fact the north half isn't or something, those sorts of concerns come up. I guess that's the reason for the difference in the view. In the strict interpretation, if we're talking about prime agricultural land, we have no problem with going towards the "be consistent with."

Mr Bruce Smith (Middlesex): Thank you, gentlemen, for your presentation this morning. I can certainly share with the committee that both these gentlemen are not only very active in their federation work but are very much committed to their own farm practices, and their involvement in urban-rural issues in the county is one that should be modelled by others who share similar concerns. Thank you, and it's good to see you this morning.

I too was somewhat interested in your comment by comparison to the Ontario federation presentation yesterday. It's important for my colleague opposite to realize that under his government, when we recently had 26,000 hectares of land annexed, of which three years later we find out we only need 3,100 hectares of land for urban growth for the next 20 years, the sensitivity perhaps is a little more than can be expected.

I want to come back to that same point. Both of you have been intimately involved in a three-year planning process here in the city of London, representing rural interests. You made some initial comments regarding the streamlining process and the one-window approach. Surely after three years of being intimately involved with various ministries, different interest groups, municipal council, you would have some vision of what the one-window approach should look like, and I was wondering if you could share that with the committee this morning.

Mr Fletcher: I think you have to have a lead ministry and all applications should go there. You should have some type of forum or information beforehand so that you know exactly what is needed beforehand. Once that is put in, there should be a time frame and there has to be input by all ministries and it has to be within that time frame and then you go from there. If each ministry is considered equal, that's the way it should be.

As it is right now, you have to go all over town or hell's half acre to get ministry approvals and what not. Right now, for instance, Natural Resources works out of Aylmer for this district. At times they don't necessarily have gasoline for their cars, so if you want to go pick them up you can get them to come see your place. But timeliness of comments that return and come back are a key thing. Development is needed, there's no doubt about that, but there has to be a time line that everybody has to get their act in gear and deliver.

Mr Smith: You alluded to it in part, your comments with respect to the draft provincial policy statements. Albeit we shouldn't look at one section in isolation of another, on initial review of those draft statements, what's your gut reaction to the manner in which the agricultural policy statements in draft form have been presented to you?

Mr Duffin: Do you want the short answer? On the broad picture, I think everything has been simplified. I guess our concern is that it's been simplified too much,

to the extent that perhaps the long-term vision for agriculture will be missing when the day is done.

The Chair: Thank you both, gentlemen, for taking the time to make a presentation before us here this morning. I appreciate it.

0930

LONDON HOME BUILDERS' ASSOCIATION

The Chair: Our next group up is the London Home Builders' Association. Good morning.

Mr Barry Card: Good morning. I'm Barry Card. Neither Dick Brouwer nor Ian Low will be appearing this morning. I got recruited to carry the flag on their behalf.

I have written materials that have been provided to the clerk and I hope will be available to the members to consider during the presentation. The written materials are in outline form, and what I hope to do during the allotted time is review the basis for the suggestions being made. They are very specific; rather than being philosophical, they are brass tacks. That may be a little different approach than some of the groups that will be making presentations.

The reason is that in one of my lives I am an adjunct law professor at the university and I teach land use planning law. A number of things have come to my attention over the last few years that I've been looking for an opportunity to have corrected. Most of those things reflect my basic philosophical bent as a member of the home builders' association that things could work a lot better in the land use planning process. I was extremely disappointed that during the last round leading up to Bill 163 very little was done to address the fundamental deficiencies. The things that were done were largely window dressing, and the whole process was in my view very unproductive.

However, at page 2 of the written materials there is a summary of the main conclusions and the recommendations being offered by the London Home Builders' Association. The first point is that we generally agree with the thrust of Bill 20 and we support it. Unless otherwise noted in the materials, we agree with the change. We agree that municipalities ought to have more autonomy in the planning process. We agree that the role of the Ontario Municipal Board should be preserved. We think there are a number of ways that the planning process can be streamlined and improved and we endorse all those general goals of Bill 20.

What we've got in the other two parts of the materials is a suggestion for revisions to Bill 20 as it has been drafted, and in part 4 a suggestion for other revisions that might be made which have not been included in Bill 20 or which at least supplement the changes being proposed by Bill 20.

There are a couple of points that arise from what I heard discussed in the last few minutes that I'd like to make at the outset, first of all with respect to the importance of the policy statements. We have for a number of years managed quite nicely with the words "have regard to" and we know what the words "have regard to" mean. They mean that in the absence of other overriding considerations you will obey the policy statement's

directives, and that works very nicely. The problem with "be consistent with" is that it suggests that this is the one compelling principle that has to be followed in a planning decision and that other issues, other considerations, fall by the wayside if there is a provincial policy statement that directs on the matter. What that does is make the planning process inflexible.

The last process was supposed to result in more municipal autonomy, but as the result of having a set of policy statements that say "be consistent with," all municipalities could actually do was take the provincial objectives, package them with a little bit of glitz and say, "This is our official plan." It actually gave the municipalities less power, because if you have a list of fundamentals that have to go into your official plan, the things you are able to do are much less, you have much less creativity. "Have regard to" provides the opportunity for municipalities to make adjustments that make sense on a local basis. Not everything that comes out of Toronto applies universally throughout the province, and it's nice to give municipalities an opportunity to make adjustments as they see fit. That was the first point.

The second point is with respect to agricultural policy. The home builders and the Middlesex Federation of Agriculture have something in common here. We have looked at the planning process the city of London has gone through the last couple of years, and we've seen the initial result. The initial result is a proposal that would designate nearly a quarter of the land that London annexed for open space purposes, and that's before you get into the other dedications that will follow as a result of the subdivision process, which means that an additional 5% might be consumed for open space and recreation purposes.

So you're looking at something approaching 30% of the annexed land that has already been proposed for no use, and that will be a very expensive feature. It will be expensive because when it comes time to service the land, the services that have to be provided will be all that much more expensive. It's going to mean that farm land is absorbed at a faster rate because there's so much less land that was annexed available for development purposes. What that will do is hasten the decline of agriculture in Middlesex and at the same time force up the price of serviced land, developable land, for people who are buying new houses.

We think that is a very unfortunate situation. It results from the fact that the policy statements, as they are now written, require that there be a one-dimensional approach taken to protection of the environment, that is, that the natural heritage areas are assessed outside the context of the needs for urban land. So London is rushing off and assessing its open space requirements for the next 50 years without considering what its need for urban land uses will be. Again, that's a very fundamental mistake. Land use planning is a process that contemplates the balancing of competing considerations, and by rushing one issue ahead of everything else, you're bound to make mistakes, mistakes that are going to be expensive to everyone, including the home-buying public.

We think London's planning exercise over the last two years is a very good example of why the current policy

statement approach is not going to work, so we do encourage the changes proposed and there are a number of suggestions we will offer in a moment.

The directions that were received with respect to briefs indicate that there should be a statement about the purpose of the organization making the submission. That's what's in part 2. I don't propose to review that at any length. However, what is important to note is that home builders don't routinely have a lot to do with the land use planning process. They're mostly affected by the process when it comes time to purchase and build, much like consumers are affected by the land use planning process at the very end of the process. If the process is inefficient in delivering serviced land, home builders will find that there's less product available or that costs will be higher, and that's the same experience consumers have. Our interest is very much the same as consumers, and I hope our submissions will be received in that light.

The first of the suggestions being offered today is with respect to section 13 of Bill 20. I haven't reproduced the legislation with these materials, so it will be necessary to refer to it. Subsection 22(5) of the Planning Act as it would be after the amendment allows the council to require that further information or material be provided as the planning board or council considers it may need. In other words, in addition to the things you can specify in a bylaw—and the act will allow for material to be identified in a bylaw for submission to the council—you can meet with the council and then they'll decide they need something else, and the next time you meet with them they'll need something else, and it goes on and on and on. What this does is extend the period that runs before the period that counts. In other words, before you can get to the point where you can say, "Okay, the clock has started running now for 90 days" or 120 days or 180 days or 150 days or whatever it is, before you can start the clock running you have to provide all the needed information. It's like a moving target, because every time you talk to them they can say, "We need something else before we can consider your application."

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Our suggestion is that if the power exists to prescribe the information that's required in a bylaw, that's the place where the council should express what it needs and not have a moving target where every time you meet with them they're able to tell you they need something else. This is a very minor technical amendment, but it can be very important in protecting the rights of people who come before councils in the process, because if they're up against time constraints, the natural tendency will be to avoid and delay, which is the thing that seems to happen the most, especially with unpopular applications. Let's have a way of fixing the date when the time period begins.

The second suggestion pertains to section 13 as well, subsection 22(6) of the act. Delete the words "to accept or" from clause 22(6)(a) of the draft. There isn't any need to refuse to accept an application. Again this opens the door to abuse, because if you can come up to the counter and say, "I'd like to submit this application," and the answer is, "Sorry, we're not interested in it; take it back," you can't start the clock running. In order to get

the clock running, you have to have a way of submitting an application.

Now, it's true that there might be disagreement as to whether all the required information has been provided. If there is, there ought to be somebody to sort that out; the somebody ought to be the Ontario Municipal Board. But you have to be able to get in the door before you can take advantage of the municipal board. So that's why the words "to accept or" would be removed, to eliminate that advantage that municipalities would have.

Third, the same section, subsection 22(7) of the act, this supplements the previous recommendation, and that is to allow the opportunity to have a determination by the OMB as to whether the application is complete. There may be some dispute between the applicant and the municipality as to whether a particular study is required. Obviously, if the applicant goes forward and doesn't have that study and the municipal board determines it's appropriate, you're not going to get very far. But there ought to be a way of avoiding the dead end. That's the flaw with the way the act is written now: There's a dead end. If there's a dispute, nothing is ever going to happen.

The next takes us to section 24. This deals with site plan approval. One of the innovations of Bill 20 is a proposal that municipalities be given the power to require the dedication of transit rights of way. In London, we don't have a very sophisticated public transit network. However, the day is probably coming when that will change.

The problem is that when a municipality starts plotting dotted lines on a map, it may not have any funds to achieve the routes it is proposing—probably won't—but it will have an opportunity, if this power is given, to acquire land without compensation. That's a major concern, because the people who are going to pay for the land required for transit routes will be the people who move into new town house or apartment developments.

This is a site plan approval power, which means it's not going to apply to detached dwellings but it will apply to people who live in town houses or apartments. What it says to the owner is, "If I come in for a site plan approval on a block of land, and that block of land happens to have a dotted line across it, you're going to give us"—the municipality—"the land for the transit right of way." So the people who are going to live in the development or buy units are going to be paying for that. We say that's not appropriate, because it's a benefit to the community as a whole, and that benefit shouldn't be borne by a specific group of people, being the people who are owning or occupying the development.

That's one of the most offensive provisions, we suggest, of Bill 20, because it's a radical departure from what we have now. I should point out that under section 41 municipalities are not permitted to require that land be dedicated for new roadways. They cannot take a piece of land and say, "We want to strip across it for a road." What they can do is they can take road-widening dedication, so they can take 10 feet off the side of an existing road and say, "We want that free of charge." But being able to go down the middle of a site to create a transitway is something completely different and much more disruptive, expensive and offensive.

Next is section 26. Section 26 deals with the minor variance section of the Planning Act. Our suggestion is that the current section be left alone. Despite extensive consideration during the last review of the planning process, Bill 163 left section 45 intact and there was considerable wisdom for doing that. The minor variance process is often looked at as an annoyance and it's often looked at as a process that involves neighbour against neighbour. But it has a lot more important features than that, and often very important issues are dealt with by minor variance. For example, one of the leading cases in minor variances is a case that involves a bookstore, Coles, in Toronto. It stood for the proposition that you could completely eliminate a requirement from a bylaw as a minor variance. So minor variances are more important than they get credit for.

The problem with eliminating the right to appeal, which is most of the reason why the section is being re-enacted, is that there are jurisdictional difficulties, there are jurisdictional limitations with minor variances. Minor variances are only appropriate if the four tests that are set out in the statute can be met. What I'm concerned with is that if you eliminate the right to appeal, you are really forcing people to go to court to determine whether or not a committee acted within its jurisdiction. Superficially it might seem like you're going to shortcut the process by eliminating the right to appeal, but my experience suggests otherwise. If there isn't any right to appeal, there are going to be applications for judicial review to determine whether or not the four tests have been met, and that is a more expensive and time-consuming process. Because of that, it's not advisable to eliminate the right of appeal.

I would say, given the large numbers of minor variances that are processed in this province each year, that the number of matters that go to appeal are the minority, the very great minority. With the expanded rights to dismiss appeals that have no substance, there really is no need to do away with appeals. So our suggestion is that section 45 be retained as is.

That takes us to section 44 of Bill 20, which is the transition provision of the Planning Act, section 75. I didn't have any problem when I read Bill 20; I understood that what was intended by subsection 75(3) was that any matter that hadn't gone through the system and been considered by the council or by the board was going to be dealt with on the basis of the policy statements as reproclaimed. That would be a very good thing to do. It was suggested to me by some people that this wasn't the way they interpreted the revision. So what we've got here is the suggestion that a few words be added to make it clear that the policy statement that would be applied to applications that have come into the system since March 28, 1995, will be the policy statements that apply at the time that consideration is being given, which means the ones that will emerge from this process. I note that the draft policy statement implementation section does say this very thing, but it would be wise, we submit, to have it in the legislation as well.

Bill 20 proposes an amendment to the Development Charges Act and the amendment is a very substantial one. The amendment is to remove the appeal process that is

presently in the act and replace it with a provision that permits the minister to approve development charge bylaws. Admittedly, this is an interim provision and not something that we would expect to find as a feature of the permanent Development Charges Act after the fundamental review process which is now being undertaken is completed. However, we think it is a dangerous precedent for the minister to be charged with responsibility for the approval of development charge bylaws. It's a dangerous precedent because what it does, really, is set up the province in a position of approving a local tax that applies to a specific class of people. It's a dangerous precedent to allow the province to do that, because once that happens, there's going to be pressure to make that tax universal, so that it would apply evenly throughout the province.

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We see that with the property assessment system right now, and this is a tax that's not unlike that, only it's a smaller class that pays the tax. What happens is you eventually remove local autonomy, you transfer it first to the province and then you throw out that whole system and have a universal tax that applies to new home buyers that goes into some kind of fund that provides infrastructure. We think that's exactly the wrong way to go. Although this is just an interim and token amendment, we think it is not a proper part of Bill 20.

In addition to the changes we've suggested to Bill 20 itself, there are a number of further submissions we would like to offer you, and these begin at page 10 of the written material, "Part 4—Additional Amendments."

Bill 20 does propose to repeal paragraphs 3.1, 3.2 and 3.3 of section 34. I've suggested in the paragraph that follows that those amendments were window dressing and really had no impact on the meaning of the Planning Act anyway. I mean that sincerely. Section 34, as it was before Bill 163, contained the power that allowed municipalities to prohibit the use of land except for such purposes as were set out in the bylaw, and that's really all you need to say. This other stuff in 3.1, 3.2 and 3.3 was completely unnecessary. It looked like it was doing something; it did nothing. It was a waste of paper and it ought to go. Simply amending it by removing a couple of words to suggest that you're not going to prohibit all uses of land is unnecessary, because paragraph 3 does that anyway. You don't need it. Why not go the whole distance and take it out?

The next suggestion is with respect to subsection 34(9). Subsection 34(9) pertains to non-conforming rights. It is untouched by Bill 20, but it's a problem that is longstanding and somehow had escaped examination in the white paper that was done in the late 1960s and resulted in the eventual changes to the Planning Act in 1983. Then in Bill 163, somehow, 34(9) just motored on through and has never improved. But it has a couple of major problems.

One problem we have recently experienced in the city of London, and that is when you have a difference in the date that the bylaw is enacted and the date that the bylaw is to come into force. What happens is that the right under subsection 34(9) to the protection of existing uses is as of the date of the passing of an amending bylaw. So

if you're doing a comprehensive bylaw, the rights of land owners are protected as of the day of the passing of the bylaw. But there are often a zillion objections to a comprehensive bylaw. That delays the coming into force of the bylaw.

What London did eventually was it suspended the coming into force of its new comprehensive bylaw by two years. So what happens to everything that's built between the time that the bylaw is passed and the time that the bylaw comes into force? Really, there's no protection. It creates a very large mess. The courts have decided that there is only one bylaw in force, so the bylaw is the one that is fully in force, and that is the old bylaw. Building permits have to be issued on the basis of the old bylaw. So when you get this hiatus, it makes a very big mess. What the amendment is suggesting is if there are two dates in the bylaw, a date where the bylaw is passed and a date where the bylaw is to come into force, you use the date where the bylaw is to come into force for the determination of non-conforming rights.

The other problem, the companion problem, is with respect to the protection that's given to applications for building permits. People who buy land often do it on the basis that they can use it for some purpose and they are surprised to find that municipalities can change the rules after they apply for a building permit. The way the section is written, it protects you if you have a building permit issued, but what if you applied for a permit three months ago and the permit hasn't been issued? What if the municipality changes the zoning bylaw? What if the municipality passes an interim control bylaw? What it means is that overnight, and after you've made your investment and after you have made your application, the rules will change. That's not fair and that's the reason that a change ought to be considered to clause 34(9)(b).

That takes us to subsection 38(7) of the Planning Act as it is now. Subsection 38(7) deals with the power of municipalities to enact interim control bylaws. The interim control bylaw power is an extraordinary one. It says that immediately, without any notice to anyone, municipalities can pass a bylaw that affects land use. So in the middle of a council meeting, in the dark of the night, they can enact an interim control bylaw. The next day everyone finds out that the zoning has changed, because eventually notice goes out.

Because that's a draconian measure, the Legislature, in its wisdom, saw fit to impose a prohibition on the repeated use of it. What the Legislature said was, "You can't use it on the same land for three years after you've used it once." Unfortunately, the municipal board and some municipalities have found an ingenious way of getting around that prohibition. The ingenious way is to say: "If we have used the interim control bylaw for a different purpose the second time around, then the first time around doesn't count. So even if we had another crisis last month that required the interim control bylaw and we got rid of that crisis, this month we have a different crisis and now we can use the interim control bylaw all over again." That isn't what the Legislature intended, and something ought to be done to correct that situation, because the use of interim control bylaws does have a tremendous impact on vested rights.

That takes us to subsection 41(7), which is back to the site planning control provision of the Planning Act, the same provision that is going to be amended or proposed to be amended with the transit right-of-way issue. Subsection 41(7) allows the entering into of agreements; however, municipalities frequently abuse that power by having agreements that are far more pervasive than the enabling legislation permits. The problem for developers or home builders is that if you come to city hall and say, "I'd like a site plan agreement to allow me to build what the zoning bylaw says I can build," they say, "Well, here's our list of demands," and your choice is either you sign the agreement that contains that very long list of demands or you don't get your building permit.

The change we're suggesting is that if they go beyond their power, sign the agreement anyway, give the municipal board the opportunity, the power to revise agreements that have been entered into under section 41, because the municipal board says, "We can't do that." So if we can allow them to review existing agreements if municipalities have exceeded their jurisdiction, that isn't going to hold up construction. You can still build your town houses or your apartments and settle the matter later.

Next is subsection 41(12), again a supplementary amendment that would allow an applicant for site plan approval to sign the agreement, pay the municipality whatever the municipality requires and then still have the opportunity to appeal to the OMB.

Item 6 of our suggestions is the same thing, only with respect to parkland. Right now, if you are asked to pay cash in lieu which exceeds what the municipality should be asking you for, you can pay under protest and remit that matter to the OMB. Unfortunately, if they ask you for the parkland itself, you can't use the same approach; you can't give them the parkland and then appeal to the OMB. It holds up your development and then you have to wait whatever it takes to get to the OMB, a year or a year and a half, before you can have the matter adjudicated.

Recommendation 7 deals with minor variances. On the assumption that you would retain the right to appeal, there is a dead end created by the existing legislation. The dead end is this: The legislation is very good about saying that an appeal has to be heard by the committee of adjustment within 30 days after it's received. Unfortunately, that's where the obligation stops. So they can hear you and then say, "Well, we'll defer on this and consider it some other day." They can defer on it for months or years or never do anything, and you don't have the right to appeal, because your right to appeal flows from the decision. If they don't make a decision, you're stuck. If you're going to keep the right to appeal, please consider amending the requirements of the statute to say that they have to make a decision, and if they don't, you have the right to appeal.

Suggestion 8 deals with draft plan approval. The way the act was amended by Bill 163 gives the minister the opportunity to change the conditions of draft plan approval right up to the time the subdivision plan becomes complete. That again is a very expensive and unfortunate change, because it means the draft plan approval means much less than it should.

The Chair: One minute.

Mr Card: Draft plan approval was intended to mean that these are the conditions under which you can proceed to have your subdivision registered. By allowing conditions to change right up to the time of finalization, you've taken away the meaning of draft plan approval, and that's a very serious change.

There are a few other suggestions, which obviously I won't have the time to review this morning, but I do thank you for the opportunity to make these submissions.

The Chair: Thank you, Mr Card, for an extremely thorough presentation. We appreciate your taking the time to visit with us here today.

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JOHN MARTYN

The Chair: Our next group up—actually, sorry, it's an individual, Mr John Martyn. Welcome to the committee. Again, we have 30 minutes for you to use as you see fit, either presentation or question-and-answer.

Mr John Martyn: Okay. My name is John Martyn and thank you very much for allowing me to come before this group. I've done a number of things in life but I'm not going to go into that.

A number of these items are general, and I think as members of the Legislature, and I guess most of you are, you should be concerned with them. I'm going to go over what I think are some of the major items you should consider in this bill, largely directed to agriculture. I know some of you are experts in agriculture on this committee.

I just note in passing, and you people know this, that the current bill is remaking a considerable amount of the Sewell report, which has just come into effect. I'll go on to paragraph 2 here of page 1. I'm just going to go over it.

Whatever one's political stripe, it is evident that we cannot continue to squander our agricultural land base. The area in census farms diminished by 1,452,627 acres, or 9.7%, in the period 1981 to 1991. Those figures are coming out of our own ministry. It is also noteworthy that in 1994 Ontario's exports of international agrifood were valued at \$4,202,087,000 while imports were \$6,840,023,000, for a net deficit in our balance of agrifood trade of \$2,637,936,000, ag stats from our department. The situation regarding the loss of farm land is even worse than the raw figures suggest, for much of the lost area is of class 1 land. Clearly, losses of the magnitude of 10% cannot be allowed to continue and any policy encouraging such losses is retrograde.

The foregoing scenario is made more sombre by the fact that grain prices, especially corn, wheat and soybeans, have markedly increased recently. Why don't we let our grain farmers contribute to reducing our deficit in international agrifood trade by seeing that the land base they exploit remains as large as possible? The world markets for cereal grains appear to be high, as evidenced by recent remarks by the Secretary-General of the United Nations Food and Agriculture Organization. As noted in a recent Reuters dispatch reproduced in the London Free Press of February 2, 1996, rising world populations

combined with food price increases of 30% to 50% present formidable problems:

"We must prepare to feed about nine billion people who will inhabit the world by 2030, up from 5.8 billion today.... It is not acceptable that the most fundamental right of human beings...is not guaranteed in a world where we are going to the moon and are sending up space shuttles."

I have one other point on this macro view from a person I respect a great deal, but he's talking vastly beyond what we're dealing with. If one wishes to get a macro view of things, including vastly more than just agricultural matters, one gets such a perspective from Carl Sagan, probably the world's most distinguished popular astronomer. His most recent publication is *Pale Blue Dot*. Sagan uses satellite imaging to give us entirely new perspectives on our pale blue planet, as seen from space. In a chapter entitled "Is There Intelligent Life on Earth?" Sagan observes:

"From your orbital perspective, you can see that something has unmistakably gone wrong. The dominant organisms, whoever they are—who have gone to so much trouble to rework the surface—are simultaneously destroying their ozone layer and their forests, eroding their topsoil, and performing massive, uncontrolled experiments on their planet's climate. Haven't they noticed what's happening? Are they oblivious to their fate? Are they unable to work together on behalf of the environment that sustains them all?"

"Perhaps, you think, it's time to reassess the conjecture that there's intelligent life on Earth."

Before we think that Sagan is just a pessimist, he says: "But in terms of actual knowledge, at this moment the Earth is unique. No other world is yet known to harbour even a microbe, much less a technical civilization."

What's all this got to do with Bill 20? I offer the following comments. As a general observation, it seems to me that weakening of the general oversight of the provincial government in planning matters is unwise. Few, if any, local authorities have the expertise and knowledge in general matters that the province should have. In other words, I believe that general policy should be set forth by the province. If it can't do that in a responsible manner, what good is it?

Definition of "public body" in the bill: In many areas of planning, Bill 20 excludes all ministries of the province of Ontario except the Ministry of Municipal Affairs and Housing. Does this mean that OMAFRA and other relevant public bodies are denied a full part in the planning process?

The power to prescribe other matters to be of provincial interest: Does the repeal of this provision in section 2 of the current act unduly hamper the future exercise of provincial authority?

"Be consistent with": Why shouldn't local decisions in planning "be consistent with" policy statement issued under subsection 3(1) of the current act? Don't we want some provincial leadership rather than helter-skelter development at the whim of local municipalities that are determined to undercut one another? Provided that there is a level provincial playing field, there should be no objection to provincial leadership. Provincial leadership

will do much to reduce gratuitous lawsuits and mindless expense. My experience with developers is that they are content, provided that someone else is not getting a leg up. Do any of us naively assume that local authorities won't try to outdo their neighbours, to the possible detriment of all?

Subsection 34(1) of the Planning Act: Paragraphs 34(1)3.1, 3.2 and 3.3 should be left intact. We do not need exploitation of the sensitive areas set forth in the act. As our population increases, we shall be increasingly concerned with the preservation of significant wildlife habitat. We should also be concerned about erosion and water quality. The growing populations of our metropolitan areas will insist that these areas be preserved unspoiled and will look with a jaundiced eye on those who propose to do otherwise. If you have any doubts in this regard, consult the letters to the editor column of your local newspaper.

Again, developers will be content, provided the rules are the same for all. All sorts of lawsuits and contentious encounters will be avoided if we don't invade these areas. But once they are opened, tempers will flare on all sides. The aim of all wise legislation should be to calm the populace and not to inflame them needlessly. If the rules are fair and clear, tranquillity will result. One must not let special interests cloud the horizon.

Public meetings re subdivisions: Bill 20 proposes to remove the requirement that a public meeting in respect of a proposed subdivision be held. This is unwise.

Consents: The requirement that a public meeting be held in respect of a consent to sever land is removed. This change in procedure is extremely unwise. It's guaranteed to set neighbour against neighbour. It will encourage clandestine actions. As it is, consents in rural areas are already causing severe problems for farming operations. A lawsuit or threat of a lawsuit is able to upset many farming situations. Full public scrutiny and participation is necessary in respect to severances. Any provision that opens more farm land to severances is not in the long-term interest of agriculture.

The fact of the matter is that intensive farming operations and severances are often incompatible. The argument used to be that severances provide a retirement lot for retiring farmers or a place for the farmer's son or daughter. But what happens after the farmer dies or the son or daughter moves? Often the property is sold to someone totally unconcerned and unconnected to the rural scene. Lawsuits are often quickly launched on behalf of the newcomer, who sees his or her investment threatened by the farm operation. To mitigate this situation, farms were required to move their operations far back from the built-up area. This in itself contributed another severe restraint on the farm, and the old land use guidelines were of little help.

My point in the last paragraph is that any move to ease severances impacts severely on farming and farm land. Many farmers find that selling out is the easiest solution, once again reducing our agricultural land base.

I just included an item here on the Ontario Heritage Act. I see that Bill 20 removes that the minister consult with the heritage foundation before granting, renewing, suspending or revoking a licence to carry out archaeologi-

cal work. I'd have thought the minister would be happy to have expert advice in such an area.

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Conclusions: The cumulative effects of the proposed changes to the Planning Act that I have commented upon will be to impair a common policy for the province of Ontario. Common municipal policies will be less frequent; municipalities will be pitted against one another. Development will likely proceed into areas that are agriculturally and environmentally sensitive. The public already understand this, and I mention a few articles in that respect. The lack of mandatory public meetings for severances will reduce public input and encourage strife between citizens.

The foregoing comments are intended to pertain largely to rural areas. Many parts of Bill 20 speed up passage of municipal actions and are not to be rejected out of hand but should be closely scrutinized. But the necessity of protecting our agricultural land base is paramount. Too much prime land has already been squandered. Our whole emphasis should be on sustainable economic development. This phrase should not be misconstrued as unrestrained economic development.

Some might not be concerned with the loss of agricultural land and argue that we merely import our food. Such a policy is extremely shortsighted and sells Ontario and Canada short. If we wish to retain a vibrant economy in the northern part of this continent, we'd better look to our land base. Only a small portion of our land is fit for prime agriculture. It would be foolish to drive agriculture on to marginal lands, where it cannot remain competitive on world markets.

As I look about my area, St Thomas—and I have spent over half my life in major metropolitan areas like Toronto—I see abundant industrial land. In fact, we have huge factory closures and unused industrial space, as do many southern Ontario towns. Even London, the nearest large urban centre, with its acquisition of Westminster township, has an abundance of land for expansion. Do we want to expand as another Metropolitan Toronto? This urban proliferation is now being questioned as we see the expense that such expansion entails.

I hope that this committee would seriously examine the areas of Bill 20 to which I have drawn your attention. The changes that I have outlined will ultimately be in the best economic interests of us all, both urban and rural, farm and non-farm.

The Chair: Thank you, Mr Martyn. You've allowed us five minutes for questioning per caucus. We'll start this round with Mr Christopherson.

Mr Christopherson: Thank you very much, Mr Martyn, for your presentation. Obviously you've given these matters a great deal of thought and I hope the government will take heed of a lot of the points you've raised.

Let's start with the macro. On balance, who do you think the winners and losers are with Bill 20 if the government enacts it the way that it's now laid out?

Mr Martyn: As I have mentioned in there, I think for our best agricultural land we should give very careful protection. I didn't comment on the urban aspects of the bill; I don't know that much about it, like the last

speaker. But as I was saying, we can't continue to every 10 years reduce our agricultural land base by 10%.

Mr Christopherson: But who loses if we do?

Mr Martyn: We all do. For instance, I was pointing out our deficit in agricultural trade is \$2 billion. With the recent changes in agricultural prices in corn and soybeans and so on, I would hope we can help make up that \$2-billion deficit.

I think we all lose. And I have served in a variety of capacities. I'm not representing an official organization here today, but as I mentioned in there, my experience with developers is that if you make the rules clear and so on, these guys are happy. But if you leave a loophole in there, they're through it like a shot, and they've got the guys like the fellow who was here before myself representing them.

Mr Christopherson: Just to give you a warm-up for the questions I think you'll probably hear from the government members, on the bottom of page 3 you ask, "Why shouldn't local decisions in planning 'be consistent with' policy statements issued under subsection 3(1) of the current act?" You're going to hear, I suggest to you, that local decision-making is the penultimate decision-making in terms of appropriateness because they understand the local scene better than anyone else. Just to kind of warm you up for that, how would you respond to the argument that local councils are best suited to make planning decisions and the people in the ivory tower ought to stay away?

Mr Martyn: They are, if you make the rules clear and fair, but I know some of these people sitting around here are representing the city of London. The city of London has a major planning capacity. I've served on municipal councils that—they need all the help they can get. They need some fair guidelines for the whole system.

Mr Christopherson: You comment on needing clear guidelines. Does it bother you that Bill 20 is being pushed through before the policies it gives effect to are finalized?

Mr Martyn: I don't know if I'm capable of answering that on policies, but what I've seen in the past is that the policies regarding farm land have been too weak. What you'll see with regard to farmers is they'll just sell out. That's the easy way. They'll simply sell out to piecemeal development, and I don't want to see one municipality pitted against another. That's what happens.

Mr Christopherson: Let me pick up on that, because I think that's an important point. Why do you think municipalities would do that? Why would they be pitting themselves against each other?

Mr Martyn: They're elected by a very narrow base. You people are elected by a wider base. In the township I served on as a councillor, Yarmouth township, you're elected to push the interests of Yarmouth township as hard as you can, just like a lawyer, the guy who sat here before me, and there are some lawyers sitting on this committee. You're pushing your self-interest just as hard as you can. The province has greater capabilities, but once they set the basic rules forward, let the municipalities take hold of it.

Mr Christopherson: Is it fair to say that because of the fiscal pressure on municipalities too because of

provincial cutbacks—because I also served on municipal council. Is it fair, in your opinion, to say that a lot of councils may be making decisions that they otherwise wouldn't, but because they're desperate for revenue, they are looking at a short-term gain and a long-term pain?

Mr Martyn: It's hard as a municipal councillor to think in terms of the whole province. You're not elected to do that.

Mr Christopherson: Sure. So therefore your submission is that the province needs to provide that kind of leadership, or that's how we're going to find ourselves in trouble.

Mr Martyn: But don't lock us in a straitjacket.

Mr John R. Baird (Nepean): Thank you very much for your presentation this morning. We appreciate it.

I won't belabour the point—and thank you, Mr Christopherson, for setting up my thoughts.

Mr Christopherson: I'm here to help.

Mr Baird: Thank you; always helpful.

I appreciate your comments at the beginning of your presentation with respect to provincial leadership. I just want to make a comment and maybe get your thoughts on it. I represent a riding in eastern Ontario, outside of Ottawa. There's one thing I was struck by, looking at the issue of provincial leadership and then on page 7 when you discussed how protecting our agricultural land base is paramount and so much is already being squandered, particularly prime lands.

I want to give you an example that took place in our regional municipality. The community got behind a tremendous effort over five years to get an NHL franchise in our community.

Mr Martyn: Yes, I heard about that.

Mr Baird: We were awarded the franchise, and we almost didn't get an arena built to house the new franchise. There were approximately a few hundred acres right beside a four-lane highway in a rural part of the region, and there was a tremendous issue. It was classified as second-class or even third-class farm land. It wasn't even being used for farming at the time, my understanding is. There was a tremendous opposition from the provincial government towards building the stadium there, and regrettably that was at the end of a very exhaustive process to find a site for it. We almost didn't get the NHL franchise and the resulting hundreds of millions of dollars of direct capital investment that came into our community, hundreds and hundreds of jobs created directly on an ongoing basis, and then a huge impact on our tourism trade, which is very important for Ottawa-Carleton given the government downsizing.

It was felt in our community that this, in your words, "provincial leadership" was really Toronto trying to tell us what was best for our community. We believed that we were best able to make those decisions locally. There was a tremendous amount of public involvement in that entire process and we almost lost the franchise. What would your thoughts be on an instance like that, when it's second- or third-class farm land, and at the time it wasn't even, in my judgement, being used for agriculture?

Mr Martyn: I read about that too. The exception proves the rule. Doubtless your situation looks like it

should have gone ahead, but can't guidelines be sufficiently elastic to allow something like that?

1020

Mr Baird: I think it was just a general principle, who knew best for the community. We obviously want some degree of provincial leadership, but I guess in our view it was a solution manufactured in Toronto. You mentioned just in the spirit that there could be political considerations with respect to these decisions at the local level—

Mr Martyn: Was that under the old legislation or the new legislation?

Mr Baird: The old.

Mr Martyn: The old legislation had holes in it, no question about that.

Mr Baird: Definitely, but I think the general spirit of Bill 163 would be very much paramount in the new, if it was considered under Bill 163. Even local political considerations can happen provincially. For example, the other franchise that wasn't awarded in Ontario was in Hamilton, and there was some suggestion in the media that the very strong and effective members from the Hamilton area in the government caucus were trying to stop the arena being constructed in Ottawa so they could get the arena in Hamilton themselves.

I just don't think the provincial leadership is going to see the absence of political considerations. I think, obviously, whether it's at the local level or at the provincial level, folks have got to elect accountable, trustworthy people to office, certainly something that I've seen in all parties on all sides of the House in evidence in my short time here. Has there been an example like that in your community in Elgin county?

Mr Martyn: I can't think of one. I am saying there should be substantial provincial input, but obviously you've got to have a lot of local autonomy too. But I think you can reconcile those. I think you have to reconcile those.

Mr Baird: Do you think Bill 163 did that?

Mr Martyn: I'm not convinced of the complete merits of Bill 163, but I think some of the things—I think Sewell wasn't a complete dummy. I'm not aware he's aligned with any political party, to tell you the truth.

Mr Baird: I think he's very strongly aligned with one political party.

Mr Martyn: I don't know. But I'm just saying you people should find some way that the tremendous loss of class 1 land is reduced. I think you have to. How you do that is up to you people, but I think you have to.

Mr Baird: I think the spirit of this bill is very much on local accountability. I think the government that's closest to people is by far the most accountable. When you can pick up the phone and call all six councillors in your community, where you couldn't pick up the phone and call all 130 members of Parliament, for example—

Mr Martyn: That's good if you want to be elected municipally, I agree.

Mr Baird: No, with respect to public accountability. At the local level there's a greater degree of accountability. Folks can come out to their local council meeting because it's just down the street and there's just a greater degree of accountability. I think that's just basically the

philosophy behind this bill, that the local government is closest to the people and best able to make some of these decisions.

Mr Martyn: I wonder if it isn't going too far in some aspects, that's all. I'm not in fundamental disagreement with you necessarily, if you knew me.

Mr Baird: I appreciate your proposal and we'll certainly take it into consideration.

Mr Martyn: This isn't Shield land we're talking around here. People like Mr Hardeman and others know that from Oxford and so do the people from Middlesex. A few years ago all the corn north of Highway 7 sort of froze, you know what I mean? I guess London right now is trying to reconcile the two, and I think London at the moment has quite adequate supplies of land. That should be enough, rather than just spilling over into Elgin and so on.

Mr Lalonde: Mr Martyn, you have touched an area that is of similar concern to other agricultural groups that came in front of us. Reading through this, I could come up with a lot of questions to your group, but I'm just going to go to a few. How do you feel about the fact that there will be no public meeting requirements whenever there's a subdivision application to a municipality?

Mr Martyn: I indicate in there I like to see public meetings. I like to see as many things resolved ahead of time as possible. If you're going to have a severance, for example—

Mr Lalonde: We have reduced the time frame also.

Mr Martyn: Yes, and I didn't comment on that and I'm not terribly knowledgeable on that. But I'm all in favour, as this last member was mentioning, of bringing the public in at every level.

Mr Lalonde: In the past we've required whenever it was class 1, 2 or 3—well, at every level really—that the Minister of Agriculture be involved for his comments on any subdivision or subdividers that would come in front of a council for subdividing a piece of land, but in this case you people won't be involved. I wonder at times really what does the farming community do in this, because there are a lot of agriculture groups that when they approach municipal council, they would like to sell a piece of land because they know there's a big profit coming to them. But there should be a mechanism in place that the whole agriculture community could say a word on it, because then they turn around, they sell a piece of land and whoever buys this piece of land would like to come and sever that land. It could be for their neighbours or friends or family construction so they could build their home. The group we had this morning, and also OFA yesterday, said that whenever you want to sever a piece of land for your mother, your father or your child, it shouldn't be accepted by the municipality because if they died or they moved, this land should be staying as a farming-zoned community. Are you in agreement with that too?

Mr Martyn: Again, you'd have to look at them case by case. At some point we're going to have to make up whether you want to farm or don't, and if you want to farm—

Mr Lalonde: It's your people will have to decide.

Mr Martyn: Yes. Well, you people are making the rules, though. At some point you're going to have to say, "This is essentially farmland, that's the prime use."

Mr Lalonde: The province could decide definitely. They're the one that would make up the rules, but in consultation with different groups like your group, definitely.

There's also the fact that the right to appeal has been removed in some areas in this Bill 20. Do you feel that whenever there's a member of council sitting on the adjustment committee that the appeal should be directed to the OMB automatically if people want to go to the appeal?

Mr Martyn: That's probably been abused in the past, but there should be an appeal mechanism.

Mr Lalonde: There isn't any in this bill.

Mr Martyn: I'm not an expert on the appeal mechanism, but there should be an appeal mechanism.

Mr Lalonde: There should be an appeal. But I really feel, though, if there's no member of council sitting on the minor variance committee, that the appeal rights should be to council and then council will be final.

Mr Martyn: That's on minor—I'm talking about larger elements than that.

The Chair: Thank you, Mr Martyn, for taking the time to visit with us today and make a presentation.

COUNTY PLANNING DIRECTORS OF ONTARIO

The Chair: Our next group up will be the County Planning Directors of Ontario. Good morning, gentlemen. Welcome to the committee. Again, we have 30 minutes for you to use as you see fit, divided between presentation time and question-and-answer period.

Mr Ralph Pugliese: Thank you very much. We'd like to thank you for this opportunity to express our views on the changing legislation in regard to Bill 20.

Over one and a half million people live in 26 counties in Ontario; 18 of these counties have established planning departments. Many have operated for over 20 years. These planning departments provide a variety of land use planning and community development services and have extensive public contact on a daily basis. The County Planning Directors of Ontario manage these departments and the views that we are about to express are strictly our own.

We believe that the existing planning system has broken down in this province because of the degree of provincial involvement required to permit, license or approve virtually all municipal actions, and that exceeds staff resources available to support such a high level of involvement. Simply put, provincial resources cannot support the current approval system.

The solution should be to encourage responsible planning and decision-making at the municipal level where the public has the greatest opportunity to participate.

We are strong advocates of community-based planning and we are pleased to see that Bill 20 strengthens the ability of people to make important decisions about their own communities. We are particularly pleased to see a return to the "have regard to" provisions respecting provincial policy, new approval authorities being made

available to counties that are undertaking responsible planning programs, the province moving out of the business of approving municipal official plans, the restoration of municipal zoning authority over second units in houses.

1030

"Have regard to" provincial policy: The requirement to "have regard to" provincial policy was in place for many years prior to the changes introduced by Bill 163. The planning profession was comfortable with its use. In our view it meant that we had to follow provincial policy unless there was a clear and compelling reason to vary from it. This allowed some room to consider local factors and individual circumstances when making decisions or setting policy.

We have never been of the view that to "have regard to" provincial policy meant reading provincial policy and then ignoring it, nor do we subscribe to that interpretation.

Empowering counties: We are very pleased to see that counties with approved official plans will be given subdivision authority and that counties with official plans approved under new provincial policies will be given the authority to approve local official plans. Both of these authorities have been extended to regions for quite some time.

There is no reason why people who live in a county system of government should not be granted the same approval authority privilege as regions and larger centres if they are willing to take on this responsibility.

Official plans: The county planning directors have for many years advocated that the province should not approve municipal official plans. We believe that the decision of a municipal council on a plan or an amendment should stand unless an objection is made. This would not prevent any interested party, including any ministry, from expressing objections to decisions made by council.

We support the province's intention to move in this direction and get out of the approvals business. If disagreements do arise, they should be dealt with as objections, mediated if possible, and when not possible should be dealt with by the Ontario Municipal Board in a timely fashion.

Streamlining: Although the time frames are tight, especially for the more complex applications, Bill 20 will promote a more streamlined and timely approval process for all planning applications. The changes to the manner in which official plans are approved will significantly reduce the existing lengthy time frames for these applications.

However, the County Planning Directors of Ontario are of the opinion that a significant opportunity for streamlining has been overlooked. Under present processes, provincial policy must be revisited for every planning application seeking approval. It must be remembered that during the official plan approval process, the essence of provincial policy would have to have been considered and incorporated into the official plan. Work and effort is duplicated when it is required that provincial policy be reconsidered once an approved official plan is in place. It must also be remembered that official plans must be reviewed at a minimum of every five years, partly to consider the application of new provincial policy.

Further streamlining could be realized by re-establishing the "deeming" provisions whereby official plans approved under the new provincial policies would be deemed to have had regard to provincial policy. This would mean that land owners, municipal councils and the public would only have to refer to the official plan, as approved, for guidance and eliminate the need to look beyond the approved official plan when considering planning applications. This would significantly reduce, and in many cases eliminate, potential conflicts in interpretation and reinforce the front-end, policy-led planning system concept.

Municipal planning authorities: While Bill 20 does not deal with municipal planning authorities, we would like to be on record as strongly opposing these special-purpose bodies established under Bill 163. They may have a limited role in some parts of the province but they have no place in counties that are undertaking responsible planning programs.

Provincial policy statements: We realize that this committee is not dealing with provincial policy statements at the present time. However, our comments refer to the general method of policy implementation and the use of guidelines. The proposed policies suggest that the practice of using guidelines to implement the policies will continue and are "advisory in nature and provide information on the policies."

Presently there are 700 pages of these guidelines in place. Experience has shown that these guidelines, in practice, tend to be interpreted in a rigid fashion and as a result erode or remove flexibility. An approach which may resolve this trend is to develop a series of suggested best practices for planners and municipal councils. The Association of Municipalities of Ontario and the Ministry of Municipal Affairs and Housing, in cooperation with one another, could develop a best-practices approach which can serve as a benchmark or reference point for making planning decisions while still allowing flexibility to be employed when necessary. The use of the best-practices model can evolve through time. The notion of guidelines should be removed.

The County Planning Directors of Ontario support Bill 20 because we believe it restores substantial decision-making to communities and will result in a more streamlined planning approval process. We encourage you to continue to promote these two objectives.

Thank you very much for your attention.

Mr Smith: Gentlemen, thank you for your presentation. It's good to see you both. I'd also like to thank you for your comments of support with respect to Bill 20, and I have to say that over the past three weeks that I've been on this committee, planners in general haven't been projected in a very positive light. None the less, I certainly want to respond to your comment on page 2, where you summarize by saying, "Simply put, provincial resources cannot support the current approval system."

Some concerns have been raised about provincial resources, and I want to pose this to you in light of the one-window approach that's being contemplated by the government. Do you feel, as county planning directors, that adequate planning resources and the tools you need to effectively do your job will be available to you after the implementation or passage of this bill?

Mr Pugliese: In a way, that's hard to answer, because up to now we've been relying on the type of system that's available. But I believe those resources are available. There are two parts, two answers to that question.

One has to do with the education that has to be done for the general public. I think the general public has to become more aware of the issues, and you've probably heard in your travels of the many environmental issues, social issues and economic issues. They've got to be made more aware of them, and that is part of the education process. I believe that's where planners can play a big role.

From the standpoint of planners themselves, in undertaking alternative reviews, I think the resources are out there. I think both private and public agencies would be utilized, in that sense, to find the resources that we need to look at very specialized areas, for example environmental areas and so on.

Mr Smith: So in the absence of any provincial or immediate provincial resource, would it be logical to assume that your organization would acquire the knowledge it needs to address specific areas or areas requiring specific technical expertise? Would that be a fair assumption to make?

Mr Pugliese: I believe there's no other choice.

Mr Stephen Evans: I would concur with that too. We've already talked about the possibility of hiring or contracting out to experts who can provide us with some detail.

1040

Mr Gilles Bisson (Cochrane South): I didn't hear the last part because of the noise. Can you repeat that, please?

Mr Evans: I'm sorry, sir. We have already discussed this in our county, and there has been some discussion about contracting out to individuals or experts to do work on our behalf, should that occur in the future.

Mr Smith: Do I have time for one more quick question? You alluded, on page 6, to your concern with respect to municipal planning authorities and certainly the impact that special-purpose bodies might have. What problems do you see arising in your particular scenario or your particular case with respect to this whole concept of municipal planning authorities?

Mr Evans: I think I can respond to that. The municipal planning authorities, in my view, and certainly this was agreed to by the county planners across the province, could undermine what has already been set up in many counties as full-fledged county planning. So we think that where there is a county planning presence, obviously there should continue to be that presence, and the institution of a municipal planning authority should be looked at as probably a way of dismantling some of that planning authority that has been in place and has worked very well for the past 20 years.

Mr Smith: Do you see accountability as being a problem with respect to a special-purpose body in this particular area?

Mr Evans: I think that could be a problem in that if you have a number of municipalities that want to do their own planning, one has to wonder where the ultimate authority is lodged. Is it an amalgamation of experiences

within those municipalities? I guess from my perspective, counties have been an ideal regional type of area to deal with planning in the past, and to segment it down to a smaller scale to us seems to be going against what the government is proposing to do: streamlining the planning process and making it a simpler type of process to follow.

Mr Pugliese: I wonder if I could respond to that question as well, Madam Chair.

Municipal planning authorities might suit the purpose of a group of municipalities within a federation, but thought has to be given to what effect that would have on the federation as a group of municipalities. That's the first point.

The second point is that in planning, there are many intermunicipal arrangements or issues that have to be contended with, everything from service delivery to the preservation of very valuable resources. It is difficult to do that in a fragmented sense. If we're trying to bring things together, MPAs tend to be an avenue for separation. We do have already in the Planning Act opportunities to do joint planning, and that is very healthy to do. Breaking municipalities off from federated bodies and fragmenting further is not, in our opinion, a healthy approach.

Mr Lalonde: I'm delighted to see the number of communities that you are representing here today. I didn't know that your association or your group existed, even though I was mayor for 15 years and Prescott and Russell is included in the communities that you represent.

I'm not completely in agreement with Bill 20, because there are a lot of parts relayed in there that I'd question. What effect would this bill have in the future development of the communities that you represent?

Mr Pugliese: I believe the bill will give municipal councils a little bit more latitude in planning for themselves, keeping in mind that there are provincial policies that we have to "have regard for" in that sense, and quite frankly I think we've always had regard for those issues. They're spelled out a little more clearly in the policies. However, the bill will allow us to grapple with the issues, knowing that the responsibility lies on council for the decisions. In other words, if you're not going to have a provincial body behind you saying yes or no, it is going to be the responsibility of the council of the day, and the facts they have before them are going to help them make the decision.

I think it's going to give councils a lot more feel and a lot more understanding of the issues because they don't have someone looking over their shoulders saying, "Yes, we'll allow you to do this," or "No, we won't."

Mr Lalonde: I'm not saying that I'm against the time frame reduction that is mentioned in the bill, but we have to recognize that within the counties you represent, there are municipalities that don't have the resources in place, really, to meet those requirements, which will in turn definitely implicate the municipality or the counties in further expenses to make sure they hire professional people to proceed with the proposed amendment that is made to the municipality.

But the one area I'm concerned about that I'm not fully convinced of is the return of "have regard to." We know that lawyers interpret at definite times, and I'm

really scared in this case that the lawyers' interpretation will, at the end, have more costly procedures than having "to be consistent with."

Mr Pugliese: One of the things—jump in any time, Steve—that "have regard to" does is give the flexibility that is necessary to handle regional differences. We might not handle agricultural land in the same manner as our neighbours, but the concern is that the end result is that we will preserve agricultural lands. "Have regard to" gives us the flexibility we need.

I might add too that "have regard to" has been in place for a number of years. In other words, there have been enough OMB battles and enough court battles to give us some sort of direction on "have regard to." It doesn't mean you can simply open the book, look at it, close it and have said that you've had regard to it. You have to do something about it and justify why or why not.

I'm going to tie "have regard to" in with the reduction in time period. It allows a planning application to get to a decision point faster and thereby the issue is then debated in front of an impartial tribunal, which is the Ontario Municipal Board. I might also add that more and more, we're looking to mediation to try to get over some of these obstacles. So with all of those things in place, I think the planning process will be much more streamlined and the "have regard to" component I think will be refined over time.

I've also mentioned here that instead of guidelines, we're looking at best practices. It behooves the professionals to direct their attention to the best practices and use them as a key benchmark.

All of those things I think will help to refine what we mean by the provincial policies when we apply them.

Mr Bisson: Just by way of background so you know where I'm coming from, obviously it was our government that introduced Bill 163 and obviously we're not thrilled about this particular bill and the direction it's taking, quite frankly in an opposite direction than what 163 was doing and than the work John Sewell had been doing, which was, as you know, a fairly extensive consultation, some would say probably the most extensive consultation and planning in the history of the province.

1050

I'm a little bit troubled, and maybe I don't properly understand what you're trying to get at here in your first page, where you're saying, "We believe that the existing planning system has broken down because of the degree of provincial involvement." It seems to me that up until about eight months ago the planning system in Ontario was basically what we're going to have again, as of Bill 20. Bill 163 has been in place for about eight months since being enacted. You talk about the system breaking down, the system being in some sort of disarray, but it seems to me the system you've been working under is basically what you're getting under Bill 20. It's a bit of a strange comment, coming from planners.

Mr Evans: I think there have been some changes, though, due to Bill 20. First of all, the issue of possibly removing approvals for official plans is something that we see locally as a way of streamlining the system. You probably are aware that in the past there was a backlog of official plans and approvals that occurred. Unfortunately,

ly, I think it was caused because of the number of ministries and agencies that were commenting on those official plans and there not being a one-window approach to deal with those situations. So there were situations where official plans were—

Mr Bisson: But I think all of us in the room could agree that you need to try to find ways to be able to make planning more efficient. Our government certainly moved in that direction; this government is trying to do the same, I would argue in a more direct fashion, when it comes to how the policies will be applied, but the problem I have is that you're responsible for the planning in the community and I see you coming before this committee talking about the system being broken down.

I've got it a little bit odd by what you're saying, because you've been working in a system that basically has been in place for many years in this province, has been developed over a period of the life of the Conservative government and ourselves and the Liberals, to where basically this new system you're opposed to hasn't been in place for more than about eight months. So if you're talking about something being broken down, it seems to me we're returning to what some of the problems were. I have a bit of a problem with the comment you make.

You go on to say, "The solution should be to encourage responsible planning and decision-making at the municipal level, where the public has the greatest opportunity to participate." I think that's great. Quite frankly, I think municipal governments—I think you're right—do respond to local issues, but we shouldn't forget that municipal councils, not a bad thing, but tend to be pro-development, more so than erring on the side of trying to protect the environment or trying to protect whatever might happen in a community.

I give you just as an example that I live in the city of Timmins, up in northern Ontario. One of the mining operators in our community, McIntyre mine, which eventually became another company called E.R.G., wanted to develop an old tailings that had been mined out years ago. What had happened was the tailings had solidified and the city, over a period of time, with the mine, some years ago fixed that up into a ballpark so that it had come back to a sort of aesthetic—it looked a little bit like it was before, because there was a lot of money put into it. The mining company decided it wanted to go back and mine this.

The only problem was it was right smack-dab in the middle of our city, and if you could imagine going into a tailings dam with water cannons and every other piece of equipment you can think of to get that out, it creates quite a mess, and once you've ripped it up it's pretty hard to get it back, because they're digging right out to the base again.

Anyway, the point is, when the city was approached by the mining company, the city took the position, and people on council, that this was economic development at a time where we were entering into a recession back in the mid-1980s, and that we needed to do this because there were jobs attached to it. There were a lot of people in the community, including myself, who worked at that company, who said, "Listen, these guys aren't prepared to put the bonds that are necessary that if they walk away, we're not stuck with the clean-up bill."

As a result—I was in the voice of the minority at the time—the pro-development community won that argument and they got permission by the city and by the province, because you only had to have regard to the provincial policies. They went ahead and developed this particular piece of land. Guess what happened? We've got a great big hole in the middle of the city of Timmins that is an eyesore and for the municipal government to go back to try to fix it, you're literally talking of tens of millions of dollars to get that thing back to what it was, with no security.

The other thing is the place shut down. We had jobs there for about 18 months; that is really what we ended up with, construction season plus 19 months of production in the actual plant. All because the council said: "We're pro-development. We believe development is important and we should only have regard to these policies. Never mind what happens otherwise."

I'm a little bit worried that if we return to those days where we can only have regard for those provincial policies, councils, because they are close to the people, because they do respond to what's happening in a local economy, might be a little bit more gung-ho for projects that maybe aren't worth it in the long run. I have to make that comment. I wonder at the wisdom of that, and I'm just wondering, in your mind, do you think I'm being a bit of an alarmist or do you think that, quite frankly, there needs to be some kind of a balance between those policies and the actual planning in communities with stronger teeth?

Mr Evans: We're here representing county planners, and necessarily in counties and in regions there are official plans that deal with basic planning issues, although we realize that at the local municipal level there are decisions made that need to have some flexibility attached to them.

I guess my reaction to your question about what happened in Timmins would be that we agree long-range planning is the way to look. We feel that developing a long-range plan for a county will provide some support for how development occurs in local municipalities. What happened in your community is unfortunate, in my view. However, I think that there are ways and means—

Mr Bisson: If it means "have regard to" the policies, that's the problem. You didn't have to adhere to them. The municipal council had the ability to say, "In this particular case, let's work out a deal with the developer and with the province." What did we get in the end?

The Vice-Chair (Mrs Barbara Fisher): Sorry, but our time has expired now. Thank you very much for coming this morning. We've enjoyed your presentation.

TOWNSHIP OF HARWICH,
TOWNSHIP OF RALEIGH
AND TOWN OF BLENHEIM

The Vice-Chair: I ask that Mr Storey come forward, representing the township of Harwich, Raleigh and town of Blenheim. Good morning. Welcome to our proceedings this morning. As you know, you have a half an hour to use as you see fit in terms of presentation and question-and-answer, and I'd ask you to introduce yourself, please.

Mr Tom Storey: My name is Tom Storey. I'm a planning consultant from the city of Chatham and I'm here representing the township of Harwich, the township of Raleigh and the town of Blenheim. My presentation shouldn't take more than 10 or 12 minutes and I'll be happy to answer questions, obviously, in the remaining time.

This presentation is made on behalf of the township of Harwich, the township of Raleigh and the town of Blenheim. These three contiguous municipalities are located in south-central Kent county, with a total population of around 17,000 and comprising approximately 170,000 acres of mostly prime agricultural farm land surrounding the growing urban area of Blenheim.

These municipalities are concerned about retaining local control of land use planning, protecting their strong agricultural economy and also other economic development opportunities which may exist in the interest of diversification and community economic improvement. The townships, in particular, have been very active in a wide variety of long-term and strategic planning endeavours in recent years, best demonstrated by their significant involvement in the Sewell commission report and Bill 163, and the negotiation of a precedent-setting, comprehensive intermunicipal planning and water service area agreement with the city of Chatham.

This standing committee should also be informed that in December 1995 these three municipalities began a review of the need for local government reform and have to date committed to a sizeable budget for consulting assistance, adopted a work plan and organized a steering committee to oversee the process. So far, five meetings of the steering committee have been held, and subject to the regulations of Bill 26 being issued, it is planned to submit a restructuring proposal to the province in late April or early May.

We feel that the provisions of Bill 20 are consistent with the restructuring initiatives found in Bill 26 and the principles of planning autonomy long held and expressed by these three municipalities. Thus we strongly support Bill 20.

The purpose of this presentation is twofold. First, we wish to emphasize those areas of particular importance to the municipalities in the event that this committee considers arguments from other parties in favour of revisions to Bill 20, and, secondly, we wish to describe several areas where we feel improvements can be made.

1100
Areas of support:

"Have regard to" versus "shall be consistent with": Item 3 of the act replaces "shall be consistent with" with "have regard to" in the requirement for consideration of provincial planning policies found in subsection 3(5) of the Planning Act. This reverses a revision found in Bill 163, approved by the previous government. The townships argued strongly against this change originally. They felt that the flexibility afforded by "have regard to" assisted in mitigating any abuse of power by the province by providing a third-party arbitrator of disputes in such matters—for instance, the OMB. At the same time, a significant burden exists for a municipality to justify departure from a provincial policy. Also, the townships

argued, the courts and OMB had developed a jurisprudence regarding interpretation and application of "have regard to." In contrast, we were never able to obtain explanation as to just what the impact of "be consistent with" would be. It was simply described as being less flexible than "have regard to" but more flexible than "conform," "conform with" or "conform to."

Grounds for referral of an OPA: Item 9 of the act—I'm referring to Bill 20—replaces the existing section 17 of the Planning Act dealing with official plans. We support the proposed changes regarding approval authorities—with one exception, discussed below—and the exemption of OPAs from ministerial approval proposed in subsection 17(9). In particular, the municipalities support the removal of the power of approval authorities found in the Planning Act today to refuse referral of an OPA passed by a municipal council to the OMB on grounds we fear can be based on value judgements of ministry staff.

Performance standards by regulation: Item 40 of the act amends section 70.1 of the Planning Act, restricting those matters on which the minister can issue regulations. In particular, the minister can no longer prescribe "the contents of official plans," a provision previously added by Bill 163. At that time, the townships argued against this change, in that it was giving the minister the authority to unilaterally impose performance standards such as the apartments-in-houses legislation, a power never provided before for planning matters. In addition, we noted at that time that Bill 40 in 1993 had given the minister the power to make regulations under the Planning Act for the first time, a power previously reserved exclusively for the Lieutenant Governor in Council.

Areas of improvement:

(1) Item 3 of the act deletes subsection 3(8) of the Planning Act. This statement provides that all official plans that are approved are deemed to be consistent with the provincial policy statement at that time. Although the rewording of 3(5) to "have regard to" no longer requires consistency between OP policies and provincial policy statements, a similar deeming provision in the act recognizing that OP policies in their preparation had sufficient "regard to" provincial policy statements would be appropriate. Such a provision would further streamline the development approval process.

(2) Item 9 of the act, as noted earlier, revises the Planning Act provisions on official plans. In particular, subsection 17(9), as amended by Bill 20, provides the minister the authority to exempt a plan or official plan amendment from his or her approval. The three municipalities welcome this proposed change, but the conditions for which such an exemption would be granted need to be articulated in Bill 20 so as to reduce arbitrariness or the appearance of such in decision-making by the minister.

(3) Revisions to subsections 17(4) and 51(9) of the Planning Act proposed in items 9 and 29 of the act would automatically give counties approval authority status for lower-tier official plans and plans of subdivisions. The three municipalities generally support this downloading of approval authority status, and in fact have actively lobbied for it in the past. However, there is a concern that the assumption of either of these authorities should be at

the discretion of the county council. It is possible that county council may see benefits from the preparation of a county official plan, but would be fearful of the impact on the increased staffing requirements that approval of a plan would entail, and thus not proceed.

(4) The townships requested in their comments to the previous government that the implementation guidelines associated with the present policy statements be subjected to a public consultation process, particularly in that so much interpretation was being left to the guidelines, and municipal planning decisions were to be "consistent with" provincial policy. In that ministry staff can still heavily influence policy by means of these guidelines, we would repeat the same request made before: The act should provide for public review and consultation on proposed implementation guidelines.

(5) A significant impediment to development and land use planning autonomy in the two townships, not addressed by Bill 20, is the power wielded by the Minister of Transportation controlling access and building permits on provincial highways without appeal under subsections 31(1) and 34(2) of the Public Transportation and Highway Improvement Act. On more than one occasion in both Harwich and Raleigh, an otherwise acceptable development application has been frustrated by MTO officials who appear to be acting at best without any flexibility and at worst arbitrarily. Some mechanism for appeal, mediation or arbitration would be welcome.

Recommendations: The township of Harwich, the township of Raleigh and the town of Blenheim recommend that Bill 20 be given final reading, subject to the following revisions.

(1) Subsection 3(8) of the Planning Act, proposed for deletion by item 3, be retained and modified so that official plans approved by an approval authority are deemed to have had sufficient regard for provincial policy as it existed at the date of passing.

(2) The conditions necessary to receive exemption by the minister from his or her approval of official plans or official plan amendments as proposed in subsection 17(9) of the Planning Act be made explicit in the text of the act.

(3) County councils be given the discretion of assuming approval authority status for lower-tier plans of subdivision and official plans as now proposed in revised subsections 17(4) and 51(9) of the Planning Act, respectively, once a county official plan is approved.

(4) Bill 20 should require, through an amendment to section 3 of the Planning Act, that the provincial policy implementation guidelines be subject to a public consultation process prior to their acceptance.

(5) Bill 20 should include amendments to the Public Transportation and Highway Improvement Act whereby a process for appeal, mediation or arbitration of the exercise of the minister regarding authority under subsections 31(1) and 34(2) can be initiated by a municipality.

The Vice-Chair: Thank you very much. We have approximately six minutes per caucus, starting with the opposition.

Mr Sean G. Conway (Renfrew North): Mr Storey, I'm very interested in your brief. If I were to get the municipal leadership of the three townships, all of which are in Kent county, as I recall—

Mr Storey: That's correct.

Mr Conway: If you were to summarize their single biggest complaint with the provincial mandates around the Planning Act at the present time, what would those two or three principal complaints be?

Mr Storey: Do you mean under Bill 163, as it exists?

Mr Conway: Well, as it exists and—maybe not even 163—but it's obvious, I'm struck by the number of places, your gang is a bit annoyed by these "value judgements" that seem to be made up at Queen's Park or in London by these MTO people who won't be flexible in the application of certain provincial policies. So if you were to summarize the two or three principal complaints of the folks down home, what would they be?

Mr Storey: I would say the number one complaint or concern is delay in getting decisions made out of Toronto on those items that require approval from the provincial ministry. Second, that when decisions are made they don't take into account local concerns, certainly to the extent the local municipalities wish they had been taken into account. I think those are the two biggest ones.

Mr Conway: To play devil's advocate for a moment, because you certainly make a number of very compelling arguments that echo a number of similar presentations that we've had in the course of these hearings. One of the observations I would make, and I'd be interested in your response to it, is that the new regime contemplates clearly more local and regional authority and less intrusion by the imperial authority in Toronto, and that's certainly in rural Ontario going to be widely applauded. Except that there are occasions, perhaps more than we might like to imagine, where, with the very best of intentions, a lot of very good people just don't get it right and then there's a problem, sometimes a big, nasty, expensive problem, the remediation of which tends to get paid for by Her Majesty in right of the Ontario government. Her Majesty's running out of money, she doesn't have much left, and she's certainly not going to be the unsatisfied judgement fund she's been for lo these many years.

1110

My question is, do you think that people back home understand that that unsatisfied judgement fund that we've operated at Queen's Park for these many decades is not going to be there?

Mr Storey: I'll go back to part of my introduction. These three municipalities that I'm representing today are very aware of that, maybe more aware than any other group of municipalities in Ontario, and that's why they have already begun their restructuring proposal to deal with these issues. Frankly, if every rural municipality, whether it be a township or a town, took planning as seriously as the townships of Harwich and Raleigh then we may not even be here being concerned about these types of things. I'm here speaking on their behalf. I'm not here speaking on rural Ontario's behalf.

Mr Conway: I appreciate that, and believe me that's very valuable testimony that I appreciate greatly.

Mr Bisson: I thank you as well for your presentation and I guess the crux of this comes down to the issue of provincial policy. In fairness to the government, one of the things that maybe should have been done better by our government when we were in place in regard to Bill

163 is to possibly, in regard to the provincial policies, try to clear them up and try to make them as clear as possible way ahead of 163. Maybe sometimes we should learn by our mistakes, and it seems to me maybe the government is doing the same here.

It seems to me what developers are telling me and most places that I've dealt with—not all, but the majority of developers—is, "Listen, we want to be responsible developers"; planners are telling me, "We want to be responsible as well"; municipalities say they want to be responsible, but they want to have clear rules by which to play. They want to know that if they bring an application forward, that application is going to be judged against something they understand. What they seem to be telling me is that the provincial policies are maybe a good step in the right direction, they might be well-intentioned, but they somehow need to be made clear.

The question I have for you is simply this: If we were to rewind this process that we've gone through on Bill 20 and to say before we get into the Planning Act and make changes to 163, maybe what we should be doing is looking at those provincial policies through a process such as you're recommending under number 4 of your recommendations so that we can have provincial policies that are clear to both planners and developers and the greater community so that we understand what the heck it is we're talking about in the first place, do you think that's maybe a better way to go around this?

Mr Storey: Well, we're still reeling from the changes that came from Bill 163. One of our comments at that time had been similar to your prefacing remarks, that we didn't want to see, for instance, "have regard to" changed to "shall be consistent with" until the words were actually used and we had a chance to test drive the new policy statements and the new system. Carrying that one step further, yes, perhaps it would be better to get the policy sorted out, but I do see it as a concurrent step process, none the less, whereby if you're going to clear up things, at the same time you should be dealing with the issue of approval authority such as the act did before, which we were much in favour of.

Mr Bisson: I think there could be some agreement on that from all three parties. There is an argument to be made where municipal governments and local authorities should have the ability to deal with planning in a much more direct way and to make some of their own decisions and end that duplication between the provincial and municipal governments. I don't think that's the argument.

The problem I'm having with what's happening right now is that I hear my friend from Renfrew talk about his interpretation of what may happen when we don't have strong provincial policies, and I think you heard what I said before in regard to the E.R.G. project. Now, they're not the majority of projects—let's not paint this darker than it needs to be—but if it's 20% or 30% of projects out there in the province, they've happened because there hasn't been clear policy. It seems to me if we're going to delegate the authority to municipalities to deal with planning in a more direct way, those municipalities have to have very clear direction about what can and cannot be accepted when it comes to a project.

I'd ask you the question again. Is that really what's needed here, that we have to have clear rules for the

municipalities to deal with planning and then let them do the job on the local level about how that happens; some very clear and understandable rules but, more important, rules that aren't just set in stone but do what you're suggesting under subsection (4), which is that you have your policies first of all done through a public process but then reviewed, so we learn from how the system has worked overall?

Mr Storey: Yes, I would agree that having the rules clear—now, the rules should be not only the policy statement but found in the act as well. That's why we raise the issue of making it clear how the minister will exempt.

I'd just add, in following up some of my previous comments, that Harwich and Raleigh and Blenheim, particularly the townships, have always committed a great deal of their budgets to planning, particularly long-range planning, but planning in general, and that's one reason we're concerned about provincial interference in their planning matters. It would be somewhat galling to them, I suppose, handing over the same power to other rural areas who don't participate in planning, which could result in the kinds of problems that have been suggested.

I'm not saying they'll never happen in Harwich and Raleigh. We're not dealing with a perfect system; we're dealing with the best system we can come up with, given the resources. But here are three municipalities that have committed themselves, I think as much as anyone can, to undertaking good planning. I didn't describe all the issues occurring in these areas, but they have lakefront issues, rivers, a lot of wetlands, two landfills they're dealing with as proactively as possible; this agreement I mentioned with the city of Chatham, which was precedent-setting; all the agricultural land, of course; the 401 and two major intersections are in those two townships; several railways. They've got a lot going on.

Mr Doug Galt (Northumberland): Thank you for your presentation and bringing it out so nice and clear and concisely.

We've heard a lot about "have regard to," "be consistent with." You've even added here "conform to." We've also heard from different federations of agriculture. The overall body, the Ontario federation, is quite comfortable with "have regard to." We've heard from two county groups that are having difficulty with that. Obviously, what this government is after is to leave some local autonomy, a little bit of flexibility there, and at the same time give some direction. I notice you've put in "conform," going further than "be consistent with." Do you have any thoughts on any other wording that might be helpful that could accomplish what we are after?

Mr Storey: "Ignore." No, obviously. "Have regard to," for me anyway and the municipalities I consult to, is kind of a comfortable blanket, in the sense that we felt we knew how to respond to it. We always felt there was a burden on the municipality; if it wasn't going to conform or be consistent with a provincial policy, it had to justify that. I always thought that was the way to proceed. That may have been abused in other forums, by other municipalities, and I can't speak to that where that has occurred. All I can say is how we've reacted to it. We understand the law and jurisprudence around it, we know how the

municipal board deals with it, so we like that wording. I've never really thought about an alternative.

Mr Galt: Personally, I think we've evolved as a discipline with environment over the last 30 years, and I think it's saying a lot. Using "have regard to" in the 1960s might not have had enough teeth in it, whereas today I personally think it's adequate. I was just curious whether you had other wording.

The other area I'd like to explore just for a couple of minutes, and you've brought up a new one, is no appeals with the Ministry of Transportation. I don't think anybody in this room wants to see strip development along provincial highways with unlimited accesses, because immediately what happens is that you take the speed down to a town-type speed limit and that frustrates drivers and holds up traffic and you're not accomplishing with provincial roads what you're really trying to do. On the other hand, you're expressing concern that there's no appeal process when the ministry says no. How do we go about solving that conundrum? Are there other designs along these highways that we should be considering? Is implementing an appeal process satisfactory?

1120

Mr Storey: Even some type of mediation or third-party involvement. We're not here to try and take over transportation planning from MTO or to tell them what the speed limits should be or any other things; that's quite properly their expertise and should be their jurisdiction. But we've had, once again, situations where in an official plan, into which MTO had an opportunity to have input, areas are designated for development, and hamlets have been frustrated because there's a provincial highway running through there and all they do is pull out a guideline and say, "You can't have accesses within 1,000 feet of each other" or something like that. Areas that are supposed to be developed can't be developed for that reason, or at least not to the extent they should be.

Under those circumstances, where a lower-level staff person has made a decision for a number of reasons—and I don't want to criticize those people, who are doing the best job they can, but the system doesn't allow us to find a way to say: "These are your rules. We understand them, but there should be some flexibility, considering the situation we're dealing with here." Every other land use issue eventually finds its way to arbitration of some sort, but accesses and, to a lesser extent, building permits and sign permits do not, yet they are genuinely important land use issues.

Mr Ernie Hardeman (Oxford): Thank you very much, Mr Storey. On page 2, you made the comment about the commitment of the townships to restructuring, that the commitment was based on the sizeable budget they were willing to spend on consulting fees. I just want to take that further. When you get to page 6, you express concerns that the county may recognize the need for a county-wide official plan, but looking at the cost and the department needed to do that, they may not do it, and prevent the local planning authorities from getting the approvals. I wonder if you could speak to the relationship. Do you not see that if there's real commitment there, they would be willing to commit the funds to an

official plan, the same as they were willing to commit it to consulting fees for restructuring?

Mr Storey: In our restructuring proposals, we're looking at several options, one of which is for the group of municipalities to withdraw from the county, but the two other options would see an amalgamation with the country remain.

My concern on page 6 was that we see a benefit under the two county options, let's call them, of our restructuring process to having a county official plan, even if approval authority status isn't in the cards. In the past, the township of Raleigh has asked the county planning department, for instance, to come up with a county-wide policy on severances, let's say, and consents, because we knew the land division committee in Kent, the county responsible for consents, was having—I won't say difficulty, but from one municipality to another there were different consent policies. We thought it may be beneficial to everybody if there was one standard consent policy in agricultural land and in non-agricultural land, so why don't we have a policy based on that?

While such a county-wide policy wouldn't be a full-blown official plan in the way we know it today, its status may be best as at least part of an official plan, but the staff required to implement it wouldn't be any more than the staff there today.

Our concern is that if we have to have a full-blown county official plan, the cost of preparing that may be a deterrent to doing anything on a county-wide basis, and there are benefits to looking at a number of county-wide planning issues; second, if, upon having a county official plan, the county is now going to have to have the staff and resources necessary to deal with plans of subdivision and official plan amendments on a county-wide basis, that may be another deterrent to county council undertaking that. I'm not saying we're opposed to that; I'm just saying maybe county council should have that discretion. They may say, "Great, we'll take all the approval authority status you'll give us."

The Chair: Thank you, Mr Storey. We appreciate your taking the time to make a presentation before us here today.

COUNTY OF OXFORD

The Chair: Our next group up is the county of Oxford. Good morning, gentlemen. Welcome to the committee.

Mr Craig Manley: Mr Chairman, members of the committee, first of all we'd like to thank you for providing the opportunity for the county of Oxford to present its reaction to Bill 20. My name is Craig Manley; I'm the director of policy and development for the county. With me is Jim Mutterer, the chairperson of the Oxford county planning committee.

At the outset, the county would like to go on record as supporting both the approach taken to revise the planning legislation of the province, as well as many of the initiatives included in Bill 20.

The county of Oxford has a 25-year history of land use planning and we have been an active participant in the discussions over the past five years relating to the changes to planning legislation. We are quite pleased that

this government is building upon this past work and is not throwing the baby out with the bathwater. We believe the changes proposed by Bill 20, as well as the concurrent changes to the provincial policy statements, go a long way to achieving objectives relating to ensuring that municipalities are empowered, have local accountability and that the planning process is made as efficient as it can be. We're also pleased, relative to the initiatives, to try to balance all the issues associated with the use of land, particularly through the initiatives proposed in the policy statements.

Our brief, which we've handed out, spells out the county's response in great detail relating to the changes proposed by Bill 20. Within it, you'll note a number of areas where the county of Oxford is supportive of the changes proposed by Bill 20, including the return to the "have regard to" operating clause; returning to municipal authority the ability to zone accessory apartments; the one-window approach to ministry appeals; as well as the proposal to allow for an exemption process to the approval of official plan amendments.

In the interests of time, the balance of the presentation is going to focus on four key issues or areas where the county believes the legislation could be improved upon, and these include: the application of provincial policies; the time frames proposed by the legislation; municipal servicing issues; and then a specific issue relating to Oxford county as it addresses minor variances.

The current Planning Act contains a provision that indicates that once an official plan is approved, it is deemed to be consistent with provincial policy. The county of Oxford strongly supported this position during the discussions that led up to the adoption of Bill 163. It is the county's position that once an official plan is approved, there is no need to continuously test applications against provincial policy and revisit issues addressed in the official plan. The Planning Act requires that subsequent land use decisions associated with zonings or subdivisions must be in conformity with the official plan. 1130

It is our belief that the approval of an official plan should indicate that the province considers that the official plan sufficiently addresses those items of provincial policy, and once the official plan is approved it should replace the policy statement as the instrument to be considered in guiding community planning decisions in the municipality when considering development approvals. Official plans should be the mechanism which establishes land use priorities, particularly where there happens to be conflicts between the different provincial policies; for example, resource development versus the use of land for urban development, competing interests in terms of different types of resources.

As we said, we don't believe that the application of provincial policy to every land use planning decision makes sense, particularly in terms of the use of resources. The application of policy beyond the official plan will result in revisiting issues, it will result in the weakening of the purpose of the official plan, and it will also ensure that the province continues to be highly involved in land use planning, which I believe works counter to the province's objectives in streamlining. By explicitly stating

that once an official plan is approved it's considered to address provincial policy, we believe a much more clear and efficient planning system will result, a system that's led by policy, and we will avoid continuously having to refigure the same issues over and over again as you go through the subsequent stages in the planning process.

The county of Oxford is therefore recommending that the Planning Act provision states that once an official plan is approved it is considered to address provincial policy should be reinstated and that the provincial policy statement consideration should only apply to official plans in those areas that maintain an approved official plan.

Recognizing that there are other areas of the province that do not have official plans, perhaps it's appropriate to apply provincial policy to the land use decisions at that point, but where there is an approved official plan, we think the application of policy should stop at that stage of the process.

The second issue we would like to raise relates to the application time frames proposed in the legislation. The purpose of the change, as we understand it, is to try to streamline the planning process. While the county of Oxford does not object to the proposed time frames set out in Bill 20, we do believe that those time frames are tight, particularly so when you're dealing with an issue that is problematic, complex or large in scale and scope. We believe that the only way the time frames will in fact be able to be achieved is under two circumstances: one being that proponents provide at the time the application is submitted the necessary supporting information in order to provide a proper evaluation of the proposal, and second, that there is some commitment on the part of provincial agencies in terms of resources and staff providing the necessary comments back to the municipality in an efficient manner.

Currently, the province prescribes by regulation what information is considered to represent a complete application. The prescribed information set out by the regulation represents only very basic information and usually does not provide sufficient information required to make sound planning decisions. For example, in the reuse of land we very often do not know whether, for instance, there is a contaminant buried onsite, and it becomes very difficult to make a land use planning decision dealing with health and safety and other issues unless you know that information up front. Without having that information, municipalities will be extremely hard-pressed to meet those time frames.

We believe municipalities should have the ability to set out in bylaw what sort of information will be required and that the time frame in which the planning process begins should be tied to ensuring that there is sufficient information. Accordingly, we're suggesting that the act be changed to require municipalities to adopt those types of bylaws. That way it's clear to the development community, but it's also clear to the municipalities in terms of what the standards are, and it will help to ensure that the time frames and the streamlining and the efficiency of the process that we all want to see can happen.

A second issue relating to time frames is that under the current proposed legislation, a minimum of 20 days

before an official plan amendment a copy of the current proposed plan, I believe is the wording, has to be available. Effectively, this means that a draft of an official plan amendment has to be available 20 days before the public meetings associated with the official plan.

This causes some concern to the county of Oxford on the basis that it would require the use of staff resources to prepare a document without having sufficiently completed the review to know what in fact the issues were. But preparing a draft document also conveys the perception of a level of commitment that may not in fact exist. Very often, until you receive information back relating to the technical merits, it's very difficult to draft the document. You don't know whether or not you need special clauses.

We believe the current approach that's in the legislation relating to zoning bylaws, where municipalities are required to ensure we provide enough information so the average person on the street can understand what's being proposed and why—we believe that type of wording is much better in the sense of describing what's proposed as opposed to actually having to prepare a formal amendment prior to the public meeting occurring.

The county of Oxford would recommend that the wording incorporated within the legislation as it relates to zoning be also applied to official plan amendments. We believe this wording provides sufficient safeguards so the public at large is aware of the proposal being put forward.

The third issue the county of Oxford would like to raise relates to municipal servicing. This is an issue that is of particular importance to the county, in the sense that the county of Oxford owns and operates the municipal servicing systems in the county of Oxford. We expect that an increasing amount of new development, particularly in our urban areas, will occur through redevelopment or intensification. We think a key mechanism of coordinating land use approvals and the servicing infrastructure process is to ensure that municipalities have the ability to address the servicing issue when zoning bylaw amendments are proposed that are not associated with the plan of subdivision.

Currently, under planning legislation, municipalities can require agreements for consents in subdivisions and condominiums. However, a zoning proposal has the possibility of—for instance, an upzoning could require significant commitment of servicing capacity or new servicing infrastructure, yet there's no authority to require similar agreements.

There's the additional issue with respect to the county in the sense that zoning is largely done by the local municipality, yet the upper tier, being the county, has to provide those services. Those decisions can impact our ability to ensure that we don't have to expand systems before they're necessary, for financial and other reasons, and to ensure that design capacities are not exceeded. If we have the ability to require agreements for proposals that generate increased servicing requirements associated with zoning, I think those types of issues can be addressed.

We would recommend that the proposed legislation be amended to permit both upper- and lower-tier municipal-

ities to require servicing agreements for rezoning proposals not associated with a plan of subdivision.

We also note that Bill 20 contemplates a sewer and water allocation system, but as it's currently written it would restrict it to subdivisions and plans of condominium. For the reasons stated before, we also think that should include zoning, and we would like to see Bill 20 make reference to servicing capacity affected by zoning proposals as well.

1140

The last issue the county would like to raise is somewhat specific to Oxford county. In order to adequately address it, I need to provide a little background to the county. The county of Oxford is a restructured county. In fact, the county of Oxford 20 years ago went through many of the processes that are currently contemplated by Bill 26. The county of Oxford operates a one-tier planning system. There is one official plan in the county of Oxford, and the county is the body responsible for preparing and amending that.

The County of Oxford Act, which is the mechanism that sets out the responsibilities, also requires that committees of adjustment be council. So our committees of adjustment are comprised completely of council.

Bill 20 proposes that in that type of situation the decision of a committee of adjustment will be final and binding and there will be no right of appeal. We have some concerns because we have a one-tier planning system. One of the criteria that has to be considered in variances is the intent and purpose of the official plan. The proposed approach would essentially permit the lower-tier municipalities to determine whether a proposal conforms to the county official plan without the county of Oxford being able to review those decisions or being able to refer those decisions to an independent tribunal if we don't agree with that interpretation. There would be no course for the county to review the decision and determine whether there should be an appeal to a local variance decision.

To give you some background, the county of Oxford has periodically lodged appeals where variances have been granted that do not conform to the official plan of the Oxford planning area. We are very concerned that the proposed approach has the potential to promote the misuse of the variance process by permitting the policies of the plan to be ignored.

The county of Oxford would recommend, in keeping with the spirit of the legislation to not apply one shoe size that fits all and in recognition of the rather unique system of planning we have in the county, that the county of Oxford be exempt from that particular requirement. I would note that Bill 20 has some special provisions relating to the township of Pelee, for instance, recognizing its consent authority.

The county of Oxford, I believe, and perhaps the region of Sudbury are the only two areas that operate this somewhat unique system. We happen to think it works very well. We happen to think it's one of the more efficient systems that exist in the province. But we do think there need to be checks and balances built into it, so the county would request that it be exempt from that

requirement so that appeals could continue to be lodged on the basis of conformity to the official plan.

In conclusion, the county of Oxford agrees with most of the changes to the Planning Act proposed by Bill 20, and as an aside, the county also agrees with most of the changes proposed to the provincial policy statements. From our perspective, the bill represents an improvement to the current planning system by supporting streamlining, and it also recognizes the importance of local decision-making authority and accountability and that each municipality is unique from others. The county respectfully requests that the committee give serious consideration to the issues raised by the county and the county's recommendations relating to those issues. Once again, the county of Oxford appreciates the opportunity to appear today. If there are any questions relating to our submission, we'd be pleased to take them.

Mr Bisson: By way of clarification, prior to Bill 163, if you were doing a rezoning, the cost of water and sewer redevelopment was borne by the municipality and not the developer in most cases, right?

Mr Manley: If there's an increase in servicing requirements, the cost is borne by the municipality. There's no ability to put that back on to the developer.

Mr Bisson: Under Bill 163?

Mr Manley: It's the same.

Mr Bisson: And that's the argument, that nothing has been done on that particular end, and you're saying that should be treated.

Mr Manley: That's correct. We made the same argument on 163.

Mr Bisson: First of all, you're one of the few presenters to come before this committee to speak directly on the issue of the timing elements of Bill 20. I appreciate some of the comments you made in regard to the 20-day notice provision of public meeting and being able to put that information forward. I think that's something that hasn't been said here yet from a municipal perspective and I think it's something that we should look at and see if there's some way of being able to address your concern. I'm not so sure that's going to be the case.

Let me ask you this, though, I asked the question—I asked the previous presenter the same way—I think we can probably all agree that we need to find ways to make planning more efficient. We have to end the duplication in this time of limited resources as far as the tax dollar. We need to figure smarter and better ways of doing things. The underlying problem that I see here is that really what you need to have is a fairly clear idea of what the rules are in the development game with regard to provincial policies.

I'm wondering, would you be better served as a municipality or as a county if the rules with regard to the provincial policies were a lot clearer, so that you understood what the provincial policies were in a much clearer fashion, and then after that having to work towards that as set out in the legislation. Do you think that would be a better approach?

Mr Manley: To be perfectly honest with you, I believe that the two-pronged approach is necessary. I think you have to deal with provincial policy but you also have to deal with the structural elements in the legislation. The

county has reviewed some of the changes to the provincial policy and, as I indicated, I think for the most part we're quite supportive of those changes. We think the policies are much clearer and provide a more coherent framework in which to operate. I think that both approaches are necessary, but they need to tie together.

Mr Bisson: But specifically what I would like to know is in regard to provincial policies. I don't think anybody disagrees that the province has a role to play in determining what the rules are about how development happens in the province. But it seems to me what we need to have is a very clear understanding of what those rules are in regard to provincial policy so that you can work towards planning your developments around those rules.

Should we be rather really trying to have a clearer understanding of what the provincial policies are so that municipal governments and regional governments have an opportunity to work towards that when it comes to development rather than trying to just open it up the way that we're going now, which I think in the end might be a little bit more dangerous?

Mr Manley: The short answer is no, I don't agree with that. I think you need to look at both. Policy is one side of the coin, but there are some very structural elements relative to legislation that also are extremely important to look at as well.

Mr Hardeman: Good morning, gentlemen. It's indeed a pleasure to be able to again question a report from the Oxford county planning department. I was just wondering if we could briefly discuss the provision of "shall have regard for" the provincial policy statements, changing from "being consistent with." We've had considerable debate about that in the last couple of weeks, and I think I'm just questioning the experiences in Oxford county.

Going back to the prior Bill 163, the wording was "shall have regard" to the Food Land Guidelines, which were just guidelines and not provincial policy. How would you tell the committee that the county and the planning committee dealt with that? Did they look at it and discard it, or how did they interpret "shall have regard to"?

Mr Manley: I'll preface my comments by saying that the county of Oxford did support the "shall be consistent with" provision in the previous Bill 163. Having said that, however, we certainly feel that "shall have regard for" does not give the municipality the ability simply to pay lip-service to provincial policy. We've been in front of the board on a number of occasions and the municipal board has been consistent in the sense that "shall have regard for" means you have to demonstrate why you can't meet provincial policy or why, in a particular instance, this should have priority over something else. In our brief we are supporting the change back to "shall have regard for." We think it's a reasonable standard and an appropriate standard.

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Mr Hardeman: If I could go on then with the "shall have regard for," in preparing an official plan, you're suggesting in your brief that we should also have the deeming provision still left in Bill 20, that the official plan is deemed to conform to the provincial policy statements. Would you tell me what your opinion would

be if the plan is prepared based on just having regard to and some of the provincial policy statements change over a short period of time? Do you not see a need to make sure that they stay having regard to or that that's reviewed from time to time?

Mr Manley: Yes. The Planning Act requires that official plans be reviewed every five years, and I think implicit in our suggestion is if the province changes the rules, then you have to change your own rules to take a look at it. If you introduce a new policy or if you alter the intent of a particular policy, then the onus is on the municipality to ensure that its planning framework reflects that.

But once you have a set of rules in place and once the municipality has tried to address those rules and once it has done so and the province has signed off and said: "Yes, we feel comfortable with the provincial policies. There's been sufficient regard, and if there's a conflict, we feel that it's been resolved through x, y and z," then we feel there's no need to continuously rehash those issues as you go to implement those official plans.

This is not theoretical; this is based on experience. This is what we go through on a regular basis and it is extremely frustrating, not to mention time-consuming, to continuously come up against the same issues when you feel the principle has been adequately addressed. You should not be arguing principle when you're down to the stage of dealing with the technical appropriateness of it.

Mr Lalonde: Thank you for your presentation. I want to commend you for the clear presentation that you have done here this morning. There are two areas that I would like to question you on. How do you feel about the appeal process as indicated in Bill 20 in the matter of severance and minor variation?

Mr Manley: On the issue of the appeal process, we like the fact that the government is keeping the time frames consistent. That's one thing we do like. In terms of the appeal process relative to the variances, I think we tried to explain in our context that that causes us some considerable concern. The reason for that is essentially that someone other than the county is determining whether something conforms to the county plan.

On the issue of appeals of official plans, in our brief we have a section that says we are a little concerned about an automatic appeal of official plans. We feel the current referral system, which gives some discretion to determine whether an objection is valid or not, gives us some opportunity to try and scope issues. Without that, I think we could end up in the board in more complicated hearings that don't necessarily need to be.

Mr Lalonde: Do you think there should be a mechanism in there that would cover up the cost of the municipality, so that you could in turn charge the cost of the appeals only when municipalities are allowed to appeal to the OMB? This will definitely incur some additional costs to the municipality. Should there be a mechanism in there that would permit the municipality to recover that cost?

Mr Manley: I would certainly like to see that explored in the sense of—municipal board hearings are an extremely costly exercise. Particularly for a municipality, for instance, if something goes to the board because of a third party, you end up having the cost through your

lawyer or your staff time to attend on something you perhaps didn't appeal. In that case I think there's some merit in looking at how the costs of hearings are allocated, because it certainly is one of the more expensive aspects of the planning process.

Mr Lalonde: My next question, on your page 6, second-to-last paragraph, you said that this bill will dismiss referral request for an appeal because of water and sewer. I fully agree with that too because only municipalities know that they are able or capable of extending their services, even though the subdividers at the time say they will only incur the cost. But there's nothing in there about oversizing for future development. Who do you think should be paying for the oversizing?

Mr Manley: In the county of Oxford typically the oversizing of pipes to facilitate additional development has been borne by the municipality.

Mr Lalonde: Is that right? Will that money come from the development charges?

Mr Manley: We try to recover some of that through the subsequent development charges.

Mr Lalonde: Do you think it's fair?

Mr Manley: I do think it's fair. I don't think it's particularly reasonable to expect someone to pay for the cost of oversizing when they're deriving no benefit from it.

Mr Lalonde: But in Bill 20 now you have the choice really to exchange the development charge against some services. Instead of having development charges you could make an arrangement with the subdivider to get some additional services that would compensate for the development charges, and I do foresee this as a very, very promising item in Bill 20.

The Chair: Thank you both, gentlemen, for taking the time to appear before us here today. We appreciate your comments. Given that that's the last item on our agenda for this morning, the committee stands recessed till 1 o'clock back in this room.

The committee recessed from 1156 to 1304.

CITY OF OWEN SOUND

The Chair: Seeing a quorum present, I'll call the meeting back to order. We'll commence with our afternoon presentations. The first presentation will be from the city of Owen Sound. Good afternoon. Welcome to the committee. We have 30 minutes, of course, for you to use as you see fit, divided between presentation time and question-and-answer period.

Mr Stephen Hyndman: Very good. Thank you very much. I believe the brief was handed out to you. I'll go through it as quickly as I can, hit the main points and hopefully leave a little time for questions. I understand that a lot of these issues have been discussed at great length by other submitters, so perhaps there is going to be some repeat. I apologize for that, but sometimes that's what happens.

There are really 14 areas that Owen Sound would like to focus on in its brief. In many of them Owen Sound is very strongly in support of what the government's doing, in a couple of cases suggesting some changes that the government might want to consider.

(1) The first area of interest is with regard to the "public body" provisions. Under the act, only the Minis-

ter of Municipal Affairs and Housing would be defined as a public body, although the minister would have the right to add others as public bodies by regulation.

The city of Owen Sound supports this amendment to the Planning Act because it would simplify the relationship between municipal governments and the provincial government. Right now, we find that there is such a range of complex issues that we deal with so many different people on; it would very much simplify our relationship with the province if we dealt with one window or one voice. So we very strongly support that amendment.

(2) "Have regard to" or "be consistent with," which is probably the issue of greatest debate and has been under Bill 163 when it was considered. From the municipal perspective, the amendment would afford municipalities a greater degree of flexibility when applying provincial policies to local situations, as provincial policy would only have to be considered, not really strictly adhered to.

From a broader provincial perspective, this would mean that provincial policies would have less direct impact upon the nature of local planning policy decisions, and a greater variety of solutions to common issues will result. Owen Sound supports this amendment because we believe that local municipalities need to have this flexibility to interpret provincial policies and apply them in a manner that's best suited to local circumstances.

We recognize that there is a downside to this: that if a local decision is made that proves to be an ill-founded decision somewhere down the road and there are costs to be absorbed, then indeed we would probably have little cause to go back to the province asking for relief, some sort of financial compensation. So there's a downside, and Owen Sound believes that this is something the municipality should have the responsibility of doing and should therefore live with the consequences.

(3) Approval of official plans. This one does not directly affect Owen Sound in that Owen Sound is a city that is separated from the county of Grey, so we would continue to have official plan amendments sent to Queen's Park for approval. But we believe that this procedure, by giving counties the administrative control over approval of local official plans in townships and towns that form part of the county system, is a responsible and advisable amendment to the act. We believe that decision-making at the local level is the place where the best decisions can be made.

The transfer of this approval authority to counties, of course, would represent a downloading of provincial responsibility to the counties. While we support this amendment, we believe there also should be some consideration given to financial compensation in that the province is relieved of the cost of doing this. Counties have to pick up the cost of doing this; therefore there should be some reassessment or realigning of costs in order to cover the administrative responsibilities that accompany this particular responsibility.

(4) Requirement for public meeting for official plan amendment. The act presently requires a 65-day time frame in order to hold a public meeting with regard to an amendment application. In many instances that would be fine and there would not be a difficulty in meeting that

objective, but in the instance of a very major amendment that the council would want to refer to its planning advisory committee for in-depth review, it's unlikely that 65-day time period could be met. Our planning advisory committee does not constitute a committee of council and therefore any public meetings it holds would not be mandatory public meetings under the Planning Act. Yet, that's the level at which most major problems are sorted out. We don't believe that we should be curtailed or limited in using that particular mechanism to try to solve problems.

We recognize that the province needs to ensure that municipalities move ahead as quickly as possible, but we would request that section 22 be modified to increase the time period to 90 days rather than 65 for the holding of a public meeting for amendments.

(5) Contents of official plans. Bill 163 established provisions whereby the province would, by regulation, specify what would have to be within an official plan. At the time Bill 163 came along, we did not feel that was appropriate and we are still opposed to that. We believe it's the local level that should take the decision-making responsibility in this case.

We would support the deletion of the provisions respecting provincial determination of what should be included in official plans, but we would suggest that the province continue to play an advisory role to municipalities in this regard, to illustrate to municipalities various best practices that might be employed to address different issues, as the province is one body that will have an overall perspective of what's happening throughout the province as a whole and can relate to different solutions to different problems that have been applied in different situations. We believe that is the role for the province, not one of actually telling us what we should do but rather how we should deal with things in our official plans.

1310

(6) The proposed act would remove the words "all or" from section 34 of the Planning Act when dealing with the range of uses that are permitted or how municipalities can regulate a range of uses within particular zones. It is our belief that eliminating these words could be interpreted as prohibiting municipalities from not allowing uses of lands where there is just cause for not permitting uses of lands to take place.

We believe that when it comes to contaminated or hazardous properties—and Owen Sound is a particular community that has a great amount of hazardous land—we need the ability to ensure that we can say that use of this land shall not be permitted because of the serious environmental and other problems that would result if certain activities were allowed to happen on those properties.

The city of Owen Sound would recommend that the words "all or" not be removed from section 34 of the Planning Act as is proposed in Bill 20.

(7) Apartments in houses legislation: Owen Sound council strongly supports the provincial government and Bill 20 on this point. This is probably the one point that got almost a unanimous thumbs up from council when they saw this item included.

Owen Sound strongly opposed this component of the legislation when it was introduced by the previous provincial government. The city believed that the provincial government really pre-determined that all municipalities were not being responsible in providing affordable housing, and this clearly was not the case. Owen Sound, for example, has had an excellent track record of providing affordable housing. In fact, Owen Sound has had a very liberal policy in many areas of the city for a long time in providing for conversions. We felt from the very beginning that intrusion of provincial policy into local decision-making in this area was wrong.

Therefore, Owen Sound strongly supports the removal of subsection 35(1) of the Planning Act as is proposed in Bill 20.

(8) Definition of "development": This is one item that is not covered in Bill 20 right now and perhaps might need a bit of explanation. Section 41 of the Planning Act provides the foundation for the establishment of site planning control areas in the entering into of development agreements. It does not make it clear, however, that certain types of development—I'll get to that word in a moment—qualify or could qualify under that section.

We have in Owen Sound, for example, older homes that are being converted to different uses. There are no extensions being undertaken with these buildings, there are no new floors being added, and oftentimes even a building permit is not required. Sometimes no external renovations are even needed to the site, yet that change of use has an adverse impact or can have an adverse impact upon adjoining properties. We would like the ability, for such changes, to have them enter into a development agreement to have screening fences, trees, landscaping, those things addressed.

A recent case before the Ontario Municipal Board two weeks ago dealt with the conversion of an old house to a tourist home. Not one change had to be made to the property to accommodate the use, yet there was a very strong desire and need on the part of the neighbourhood to have screening put in. But since the project didn't qualify as development under section 41, we had to sort of coerce the owner into signing an agreement to address this problem. That's wrong. We believe the owner should be responsible for putting the screening in.

We would like this section of the act changed to make it clear that municipalities have the right to require this. We believe the best way of doing this is to allow each municipality, in its official plan, to define the changes in use that we believe should be considered as development under section 41 of the Planning Act, allowing a municipality to apply its approach to its own local situation. In Owen Sound, again because of the conversion of old homes to commercial use, this obviously is where we would put emphasis. That may be different in some other communities.

(9) Minor variance procedures: The proposed legislation would provide opportunity for appeals from minor variance applications to be dealt with locally, with the option that they could be sent to the Ontario Municipal Board.

Owen Sound believes that the proposed modifications have merit and that municipalities should have full auth-

ority to address and resolve minor variance issues locally. Therefore, we strongly support the legislation. We found the wording of the act somewhat confusing and difficult to read, but after having gone through the spaghetti of the wording, we concurred with the final result.

There is one area of concern, and that is that there is reference to the Ontario Municipal Board being authorized to levy costs for appeals being heard at the board level. It's not clear where these costs would be levied to and for what reasons. Obviously, if a municipality is going to have the board hear an appeal, there would be good reason for that. The concern here is that if there are costs to be levied, they probably should be levied against the appellant, if it's a very unreasonable appeal, not against the municipality. But it doesn't make it clear in the act that the municipality would not be subject to those costs. We believe the act should be modified in this regard.

(10) Public meetings for consents and subdivisions: Bill 20 proposes to eliminate the mandatory requirements for public meetings or hearings with regard to subdivisions, condominiums and consents. Owen Sound's practice has been to hold public hearings for all of those. In fact, when it comes to subdivisions and condominiums, those hearings and meetings are held at the planning advisory committee level and not at the council level. We have found this to be a very workable and a very practical way of dealing with public input into subdivision and condominium plans.

The introduction in Bill 163 of the mandatory responsibility for public meetings being held forces those meetings to be held at the council level. While we believe public input is needed and meetings are required, we have found that having those meetings at the council level does not function as well as holding them at a planning advisory committee level.

Therefore, we support the removal of the mandatory requirement for a public meeting for consents, subdivisions and condominiums. We do, however, feel that public input is required for these particular types of development proposals. The issue is, how do you make this a requirement without forcing it to be done at the council level? We believe that perhaps this is something municipalities should address in their official plans and decide how they think they want to have public input received with regard to these particular items. But generally speaking, Owen Sound supports the elimination of the mandatory requirements for public hearings for subdivisions, condominiums and consents.

(11) Part-lot control bylaws: This has been a bone of contention for Owen Sound for many years, failing to understand why the part-lot control bylaws adopted by Owen Sound should have to be sent to Toronto for approval when we know full well what is happening and why they're being done. We fully support the transfer of the responsibility for approval of part-lot control bylaws to municipalities that have the authority to approve subdivisions.

(12) Development charges: This is a very complex issue. Obviously the government is going to be working more on this particular item in the years to come, so we are only really beginning to address this particular subject

matter. Owen Sound recognizes this and we don't pretend to say that what you are doing is wrong, because we know this does not represent the final position of the government. Therefore, generally speaking, we have no difficulty with what the government is putting forward at this time, but we want to make that conditional upon recognizing that, as the government works towards a final solution to this issue, a number of items are taken care of.

First, we believe the ability for municipalities to collect soft-service costs and development charges should be retained. In Owen Sound's case, we do not have a soft-service component. We have eliminated that from our development charge, but we believe we should have the right to include one if that's what we wish. We don't believe that should be eliminated.

Second, we believe that the adoption procedures for development charge bylaws should be made less complex. The process that's in place now is very convoluted; it's very difficult to work with. We believe there is a simpler way this can be done. We hope the government will address that as it continues to work further on the Development Charges Act.

Third, we believe that the right of appeal to the Ontario Municipal Board is one that should be retained. We recognize that having these matters go to the minister in the interim is a reasonable scenario, but we believe in the long run it should be the OMB that is in the best position to resolve conflicts.

One other item with regard to development charges is front-ending agreements. The act provides for front-ending agreements, but we have found that use of this particular tool to equitably distribute costs for development is almost unworkable because of the nature of the act and how it is written. It's a tool that has great promise but effectively doesn't exist because it cannot be used. We would hope that the provincial government will find ways of making this particular tool easier to employ by municipalities and eliminating some of the very complex procedures that are presently contained within the Development Charges Act. Again, that's not something we would expect to be done under Bill 20, but rather in the work of the Legislature over the upcoming couple of years.

1320

(13) Registration of two-unit dwellings: Bill 20 adds an interesting section to the Municipal Act by allowing bylaws to be passed that would require owners of two-unit buildings to register their units. Owen Sound finds this to be an interesting and quite possibly a very useful tool in ensuring that two-unit buildings are inspected and are safe for habitation as two-unit dwellings. But the question arises, if we're doing it for two-unit buildings, why just two? We have many three- and four-unit buildings in Owen Sound that are just as big a concern to us in terms of their safety to the residents as are two-unit buildings. Having such a bylaw of course is optional, so it's up to each municipality to decide whether it wishes one or not.

We would recommend to the government that you retain this section but that you modify it to allow municipalities to decide the maximum number of units that they

wish to have registered. So if we have many buildings of up to, say, four or five units, and we believe that's the cutoff point that would suit our particular situation, then we would have the right in our bylaw to specify that the limit would be four or five units. Anything above that would not require registration but anything below that number would. We have the discretion, therefore, to decide what level we think is appropriate for our circumstance. Owen Sound might be quite different than another community. Therefore, we believe some flexibility is needed in this area.

The very last point is with regard to the Heritage Act. The ability to have a pre-hearing conference we believe is wise. One thing that is encouraging is the attempt to try and rationalize or improve the notification procedures. Under the Heritage Act they are quite complex and very costly for us to deal with. Just a guideline that Owen Sound council believes the government might want to consider is perhaps there should be some continuity, or we'll use the words "be consistent with" some of the revisions under the Planning Act for zoning bylaws as an example, so that regardless of whether it's a designation under the Heritage Act or a zoning amendment, the same process in terms of notice and timing is used, just so that there's a clarity among the public as to what's expected and how these things take place.

Those are the comments from Owen Sound.

The Chair: Thank you very much. That leaves us with just fractionally under four minutes per caucus. Questioning this time will commence with the government.

Mrs Barbara Fisher (Bruce): Welcome from Grey county. I don't look like Bill Murdoch so I'll just do my best to sub for him today if I can, being in an abutting county anyway.

There are two areas I'd like to talk about a little bit. One is the apartments in houses, and the second part that goes with that in your presentation relates to the recording and registering of same. You made a comment that Owen Sound has in the past permitted it and it's done so within its good planning parameters.

Mr Hyndman: Yes.

Mrs Fisher: Then this in fact would be favourable to the municipality, in allowing it where the planning department and the council itself saw fit? You would encourage the continuation of it then?

Mr Hyndman: Oh yes, we have full intention of still allowing this to occur, but we believe we should have the choice as to where this is allowed to occur and where it is not.

Mrs Fisher: You do support the registry system?

Mr Hyndman: Yes, we do. We would like to see the numbers increased from two to some number that municipalities would select.

Mrs Fisher: It was interesting to see you actually go three, four or five. Anywhere else we've been, it's always been just two we've been talking about, but I'm glad that there's the openness there to do otherwise where it's fitting.

The other part that I'd like to touch on is the minor variance procedure. It says that you're in favour of local decision-making. Does your committee of adjustment currently have any council members on it?

Mr Hyndman: It does not. There is a current member of the committee who is going to be assuming a council seat April 1, so perhaps that will happen inadvertently in the next little while, but presently it does not and historically it has not.

Mrs Fisher: So the residents would have access to almost three tiers of decision-making before a final decision would be made, and that would be: to the committee of adjustment; then to council, where it will decide either to hear it or not hear it; and then to the OMB.

Mr Hyndman: That is true. I suspect that in Owen Sound's instance the vast majority of matters would be heard at the council level. That has been their expressed interest.

Mrs Fisher: Where do you think the costs should be allocated against? To whom? Against which party should the costs be allocated in the event it goes to the OMB?

Mr Hyndman: If council had the matter go to the board, it would be probably because of it being a very complex or a very difficult issue that council felt was best taken out of a political arena and put into more of a judicial arena to be resolved. I would suspect in those cases you would not find a municipality being irresponsible. It would be perhaps something that the board might want to consider an appellant or an applicant as being irresponsible in their approach and costs levied to them rather than the municipality.

Mrs Fisher: Yet the city does agree that there should be an access to appeal to the OMB if need be?

Mr Hyndman: In those rare occasions when we believe there is cause for that, yes, and that would be a case of where we believe a judicial arena would be more effective than a political or legislative arena to resolve a particular issue.

The Chair: We will move to the official opposition.

Mr Lalonde: I have a few questions. The first one is concerning the cost of appeal when a third party wishes a municipality to appeal its position to the OMB. Who do you think should be paying the costs of this appeal?

Mr Hyndman: I believe it should be the applicant or the appellant that should be paying the cost.

Mr Lalonde: So there should be a mechanism within Bill 20 to permit the municipality's recovering that cost.

Mr Hyndman: I believe so, yes.

Mr Lalonde: Very good. The next question that I had is concerning a public meeting. There's no requirement for a public meeting now for a new subdivision being proposed. At times we've noticed that it is creating a problem when you don't inform the people that there's a proposed subdivision coming up. Do you feel Bill 20 will give the flexibility to a municipality to let the people know there's a proposal coming up?

Mr Hyndman: The way the bill is worded right now, I would say it does not give that assurance, because a municipality might elect not to involve the public. In Owen Sound's case, we would continue to do so. We have in the past and we would continue to do so even though this would not be a requirement under the legislation. Our suggestion for the government is that perhaps there be some requirement that municipalities address in their official plan how they want to receive public input.

It may not be a public meeting; it may be something else. We believe there's merit in it, although we do not believe it should be a mandatory requirement.

Mr Lalonde: I appreciate your comment on that because it gives people the opportunity and sometimes alleviates some of the problems or the costs a municipality has to incur after.

The last one that I had is the development charge. Who do you think should be paying for the oversizing of a subdivision for future development?

Mr Hyndman: Who should be paying? I believe the development community should be paying for the oversizing. That is our practice right now in Owen Sound and we believe that should continue.

Mr Lalonde: It should be incorporated in the development charges?

Mr Hyndman: It should be incorporated in the development charge, yes.

Mr Lalonde: Very good.

Mr Christopherson: Thank you very much for your presentation. On page 3, at the very last bullet point, you recommend that the provincial government provide financial support to counties that assume the responsibility referred to in official plans. Have you had any indication from the government that it will be providing you with any assistance?

Mr Hyndman: No, we have not, and I have not discussed this with the county planning department to ascertain whether it has had that either.

Mr Christopherson: How do you feel about the change if you don't get the financial assistance, which I think is fair to say you probably won't?

Mr Hyndman: The best parallel I can give is when Owen Sound assumed responsibility for subdivisions and condominiums. There was no financial compensation given from the province to us to assume that responsibility, but we assumed it anyway. We believed there was an improvement to the service to the public by us taking that over and therefore we felt there was a net gain in the public's interest by doing so. We would have felt more comfortable, however, if we had been compensated for the extra costs and work that we were responsible for.

Mr Christopherson: I appreciate that, and my point wasn't so much the fact that the money wouldn't be there, but rather that you felt it was necessary so that you didn't receive a further cut in funding, because in effect that's what it is. If you get more responsibilities, and in the context of having other cuts made, this is one that adds to your problem, which leads me to my next point, which is that above you talk of supporting the change from "be consistent with" to "have regard to." Are you not concerned that given the kinds of fiscal pressures that are on you already as a result of transfer payment cuts and other revenue problems, if not your municipality, other municipalities may make decisions that they otherwise wouldn't because they need the money? I mean, in terms of the tradeoff between the environment and good planning versus immediate need. Are you not concerned that either your community or others may be facing that and in effect, as a result of the loosening of the legislation, make decisions that in better times they wouldn't dare make?

Mr Hyndman: We feel that is a very distinct possibility; however, we believe it's the price that you pay for assuming responsibility, essentially being responsible and mature. We believe municipalities need the opportunity to be responsible, be mature, and if they make mistakes, to live by the consequences.

The Chair: If you can just wrap up, Mr Christopherson.

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Mr Christopherson: Yes. I guess my comment on that would be that it's fine to say live with the consequences, but when we're talking land use we're talking about the future of our province in a significant way and when we're talking the environment you're possibly making a short-term decision that could affect the ability of future generations to enjoy what we enjoyed because you had to make short-term decisions and because the provincial law changed to allow you to make it. I don't know that future generations would agree that's a fair tradeoff.

The Chair: Thank you very much for taking the time to make a presentation before us here today. We appreciate your comments.

LONDON DEVELOPMENT INSTITUTE

The Chair: Our next presentation will be from the London Development Institute. Good afternoon, gentlemen. Welcome to the committee. As you're probably aware, we have 30 minutes for you to divide as you see fit between presentation and question and answer.

Mr Don Riley: Yes, Mr Chairman. My name is Don Riley. I'm representing the London Development Institute. I would like to introduce my colleagues, Mr Ric Knutson and Mr Steven Stapleton.

We would like to thank you for the opportunity of providing some of our thoughts on Bill 20. We endorse any initiative by this government to streamline the planning and approvals process, which in turn we hope will instill some confidence and stimulate the market and create job opportunities.

At the onset, I would like to advise that since we put this brief together, we have had some additional thoughts which are not included in the brief which I will ask Mr Knutson to present following my presentation. We will follow that up to the clerk in writing.

The London Development Institute is a registered non-profit organization comprising firms in the business of land development in the London and surrounding area. The institute's goal is to promote the building and development of cost-efficient, sustainable and desirable urban communities. The institute promotes ongoing dialogue with provincial and municipal levels of government as well as serves as a vehicle for the exchanging and sharing of methodology and knowledge gained through experience for the planning and development of communities.

The government of Ontario has listened to the pulse of the electorate for the commonsense approach. More specifically, the Minister of Municipal Affairs and Housing, the Honourable Al Leach, has taken steps to amend Bill 163 from being prohibitive to a more permissive document, workable, less bureaucratic planning

systems that will provide answers within a reasonable time frame and balance economic realities with environmental concerns. The London Development Institute supports this initiative and believes that Bill 20 will accomplish this and at the same time provide an equitable solution to land use planning.

The following brief not only espouses LDI's support for Bill 20 but offers some concerns and recommendations which it feels could enhance the same.

On the endorsement side, the return of "have regard to" in the provincial policies: The return of "have regard to" provides some degree of flexibility while ensuring that provincial direction is considered.

The shortening of time frames for processing applications: This could have a tremendous positive impact on the ability of the industry to be able to provide housing stock at a reasonable and affordable cost.

Delegation of powers: This will place the decision-making process where it should be and will reduce overlap and produce municipal autonomy.

Direct rights of appeal: This direct right of appeal eliminates the uncertainty associated with referral requests.

One-window planning and appeals approach: We feel that this will reduce ministerial overlap and again shorten time frames.

Exemption authority: This will allow municipalities to review and amend official plans and will again significantly reduce duplication and time frames.

Transition provisions: The transition provisions contained within the act seem to be fair and equitable, with the exception of major new policy initiatives, such as Vision '96, which we have here in London. It's a major document. We could re-examine the transition within that context.

The removal of mandatory public hearings: The removal of this requirement for public meetings for plans of subdivision will shorten the time frame of approvals without depriving the public of its opportunity for public input, which can be accommodated—and is accommodated—through the official plan and zoning bylaw process.

Prematurity: This removes a referral being dismissed on the grounds of prematurity without the benefit of a full Ontario Municipal Board hearing.

The function of the OMB: The Ontario Municipal Board is vital to the planning and development approval system in Ontario, acting as a forum for dispute resolution. With the implementation of the direct appeal system, we feel that the board should assume the role of a mediator and endeavour to resolve disputes by mediation, but should not be subject to all parties' approval, which could eliminate the need for many hearings.

On the concern side, with regard to the removal of direct appeals of minor variance: We basically support this section, except where there is one or more member of council on the committee of adjustment, the right of appeal to the whole of the council or to the Ontario Municipal Board should be retained. Failure to do so would place too much emphasis on one council member.

The Planning Act as a planning tool: The provincial policy statement provides for sufficient land for develop-

ment in a 20-year period. Emphasis, however, seems to be on a 20-year boundary, as opposed to appropriate planning units that accommodate growth for that 20-year time frame. The existing interpretation is on a template approach to this provincial statement, which may or may not facilitate comprehensive planning principles.

Property rights: It is noted that the expanded use of zoning bylaws to prohibit any use of land remains without any compensation, which is an infringement of fairness and natural justice. A recent decision by the Ontario Municipal Board with regard to compensation stated:

"If an application is made to develop any such lands that are not in the ownership or like control, and the city council does not wish to purchase, lease or pursue other similar arrangements for such land in order to maintain"—in this particular case—"the greenway system, then, as necessary, an application for development of such land for other purposes will be given consideration for approval by city council, in so far as such development is consistent with the policies of the official plan."

We have one recommendation, and that is with regard to the Municipal Act. Bill 163 implemented a new section 193, which dealt with the disposal of surplus lands in a municipality. In doing that, what happened was that lands that developers put forth for security purposes were caught within the context of this section of the act. We feel that this is a very important item to us, and we're suggesting that you insert exemptions as subsection (5) to the extent that lands held by a municipality for the purposes of security shall be exempt from subsection (4). Subsection (4) is the subsection that outlines the methodology of disposing vis-à-vis a public hearing, an appraisal and so on. The requirement of a council to comply with subsection 193(4) when dealing with lands held for security in our view is unnecessary, it's time-consuming and adds additional costs to the municipality and to the land, as an end user. We do not disagree with the need for this section in the act as long as the security provisions exemption, can be introduced.

I would like at this time to defer to my colleague Mr Knutson to give you the added thoughts.

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Mr Ric Knutson: I'm going to be similarly brief, and I'm going to touch on four issues. Two of those issues you heard about this morning through the presentation by Mr Card on behalf of the London Home Builders' Association. I certainly commend to you the general tone of those comments as well as the general thrust of Bill 20. As Mr Riley said, we are quite pleased to see this initiative of the government.

Two of the comments that Mr Card made this morning: One of them deals with site plan control, and that's having regard to subsection 41(12). The contention that was put forward is that it would be appropriate to have an appeal mechanism of a development agreement for a short window of time after that agreement has been executed.

You heard the previous speaker use the word "coercion," talking about development issues related to sites. Many municipalities, and London is certainly not exempt, use this form of negotiation relative to develop-

ments on matters that are beyond the scope of section 41 and those elements within development agreements. A developer who is hard-pressed in a time sense to get going and receive a building permit has no real alternative except to sign that agreement.

Providing this appeal mechanism would allow an appeal opportunity for those serious issues of coercion abuse and still allow the matter to go ahead. A similar mechanism currently exists in the Development Charges Act, and that's the section 8 appeal mechanism, where fees are paid under protest, the matter litigated subsequent to that and a decision made. I would commend that to the committee reviewing Bill 20.

One of the issues of great concern to the development community has to do with the lapsing of draft approval for plans of subdivision. The current proposal as per Bill 163 is that draft approval would have a life of three years plus extensions. In a prolonged economic downturn, such as the current situation, three years is but a blink in terms of the longevity that should be able to accrue to draft plans of approval. Similarly, oftentimes financing and banking arrangements are made on draft plan approval. Also, some larger plans or community plans are put forward on a draft plan approval basis and then staged in the conditions. Again, these should have a greater longevity than three years.

I think there are two opportunities available to the government in amendments to Bill 20. One is to create a draft plan approval time frame of a minimum of 10 years, plus extensions if necessary and warranted. The second is to return to the previous 1983 Planning Act for draft approval as it exists, but provide some mechanism for a municipality, where conditions warrant, to recapture servicing—I'm not sure of the word I'm looking for—provisions that they have provided, allocations that they have provided to that draft plan approval. The test on the municipality to recover those servicing allocations would of necessity, I believe, need to be quite onerous, and they could be set down by regulation.

The third issue I would like to raise with the committee is regarding transition policies. We have a situation here in London, which is the one that I'm most familiar with, and that's Vision '96. It is a very comprehensive official plan amendment instituting new policy that will operate retroactively into the pre-annexation city, as well as provide planning guidance to the area that was annexed into the city under Bill 75.

We are concerned, having been participants in that process over the last three years, that given the new planning initiatives of the provincial policies that are before us in a draft sense there's a very large danger of an orphan being created and that it will be created for all time or at least until it is significantly amended.

What we're suggesting to the committee is a reconsideration of the transition policies dealing with major official plan policy initiatives. In the case of Vision '96, it's likely to be enacted within weeks of Bill 20 being proclaimed and those time frames, again we know with some certainty the direction that the current government is going. This is implementing a direction of the previous government which is in many ways fundamentally at

odds with some of the balancing provisions of Bill 20, which we are commending to you.

I think there are a couple of things that you can do under Bill 20 to assist. So notwithstanding enactment under Bill 163, the new policies in effect under Bill 20 would be used to review the document prior to the Minister of Municipal Affairs and Housing's circulation of the Vision '96 document to all of the agencies. That again would allow some currency. I think this would allow some ministerial discretion to modify the document to be consistent with the new policy directions that are being taken by the government and the balancing of the environmental and economic objectives.

Further, if certain matters are litigated under the Vision '96 process, it would allow the Ontario Municipal Board similar latitude in dealing with those issues, that they be dealt with in a practical manner consistent with the current government of the day.

The fourth point that I wanted to raise was to commend to you Mr Card's comment dealing with section 48 of Bill 20 where he had recommended the deletion of the amendment and we again commend the government for doing a thorough review on the Development Charges Act. In London, we've had a great deal of success dealing with infrastructure costs and servicing through a unique system and we certainly invite the government's thorough review of development charges in bringing that forward.

On that, Mr Chairman, I'll close and Mr Riley would be happy to deal with any questions.

The Chair: Thank you, gentlemen. This time the questioning will commence with the official opposition. We have just over three and a half minutes each.

Mr Lalonde: You said that you're in favour of the removal of the requirements for a public meeting. This at times will speed up the process, but at other times it won't because if the people are not informed of what's going to go on in the area, at times it does accumulate costs to the municipality and also the developers, and I still say, like the previous speaker we have here today, he does believe in public consultation. I really feel that there should be a place in Bill 20 that would permit the municipalities to have public hearings.

But due to the fact that I only have a few minutes, the two previous presenters today had different opinions on oversizing. Being a developer and also the fact that the municipality or the city of London has all the resources in place, who do you think should be paying for oversizing in a subdivision?

Mr Riley: The developer in this specific municipality pays for the oversizing.

Mr Lalonde: The municipality or the developer?

Mr Riley: The developer. However, if he's asked to oversize above and beyond his particular development, there is a mechanism in place here that through the development levies that are collected, he is rebated for just that oversizing portion, and I think that is fair and equitable.

Mr Lalonde: The cost of that oversizing, I would think, would come from the previous development charge that was accumulated.

Mr Riley: That's correct.

Mr Lalonde: How about the appeal process?

Mr Riley: For?

Mr Lalonde: Let's say for severance or minor variance.

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Mr Riley: We addressed that. We agree that there should be an appeal process. We're concerned, however, that when one or more members of council sit on the committee of adjustment, then Bill 20 alludes to the fact that there will not be an appeal process. It's full and final. Our understanding is that if there is not a member of council, it can be appealed to council as a whole or to the Ontario Municipal Board. We agree that there should be an appeal process. It's just the mechanism of—

Mr Lalonde: Who should be paying the cost of the appeal process?

Mr Riley: I guess the short answer is the loser. I guess that's the short answer.

Mr Lalonde: That's what I wanted to hear. Thank you.

Mr Christopherson: Thank you, gentlemen, for your presentation. Your cover page says that your organization is one that comprises "firms in the business of land development in the London and surrounding area." Is it fair to say you're a lobby group?

Mr Riley: I would say it's fair to classify us as an advocacy group, yes.

Mr Christopherson: As long as you don't cross the line into special interest, you've got a chance. It would seem that contrary to what the Premier says, there are some lobby groups that are being listened to, because you seem very comfortable with Bill 20 and it seems to have met most of the needs that you have.

On page 5 there's one sentence on prematurity. It just says, "This removes a referral being dismissed on the grounds of prematurity without the benefit of a full OMB hearing." Could you expand on that for me?

Mr Riley: Within the present context of that section of Bill 163, there's a provision that the board can, without having the benefit of a full hearing, review the objection or the referral and dismiss it based on the grounds of servicing. We don't believe that's the proper grounds to dismiss a hearing. We believe that should form part and parcel of a full board hearing.

Mr Christopherson: I've always had some difficulty with that one because it would seem, just from a layperson's point of view, that would be good grounds for not letting something go any further. If the costs, particularly at a time when there's such fiscal pressure on municipal councils which are now making, under Bill 20, a lot of these decisions, are such that they can't afford the kind of infrastructure that you require in order to develop, it would seem to me that, as professional planners, it would make even more sense now than in the past that if it's not the right time for a piece of development, then that ought to be enough to bring it to a full halt. What don't you agree with in that?

Mr Riley: What I don't agree with is if the infrastructure or the pipe stops half a mile or a quarter of a mile away and the developer is of the opinion that he would front-end the cost of extending that pipe to a time later—much later perhaps—such that the payback from the

municipality through the development levies charged, then why should that be deemed premature?

Mr Christopherson: That's assuming the pipe goes halfway. The pipe indeed may not, depending on what lands we're talking about. By holus-bolus removing the grounds of prematurity—I mean, we could be talking about lands where there's no pipe work at all and yet by virtue of where you're going you're putting a great deal of pressure on municipal councils to put in that infrastructure, particularly since the government is loosening up the provincial guidelines that give more latitude to municipalities. As a professional planner, don't you see some pitfalls in that?

Mr Riley: Not specifically, because I don't know—I guess there are a few municipalities that do build infrastructure or trunk sewers, but in this particular one they don't. It's the development community that does.

Mr Christopherson: But we are talking province-wide policies. These are not specific.

Mr Riley: I agree.

Mr Christopherson: So would you agree that it's at least less than perfect?

Mr Riley: I would.

Mr Gary Carr (Oakville South): Thank you very much for your presentation. I have a question regarding some of the policy statement. As you know, that's a big part of what will happen. You have the parliamentary assistant here today. If you could give him some advice, and the minister, on what would happen, what would you suggest that he look for or do when some of the policy statements are being finalized?

Mr Riley: I'll refer that to Mr Knutson.

Mr Knutson: We're delighted, Mr Chairman, through you, to see some of the changes in the policy statements from those enacted under Bill 163. They are clearer. I believe they focus legitimate provincial issues that the province might have, but in such a way that municipalities, in having regard to those provincial issues, don't create a homogeneous application of the policy. Thunder Bay's issues may be different than Windsor's or Owen Sound's or Cornwall's, and the provincial interest will vary in intensity on any particular issue from place to place. Those changes we are very pleased to see.

With the policy statements dealing with natural environment issues, instead of an isolationist approach, which was legislated through Bill 163, there is an ability to integrate. One of the flaws that in my professional opinion as a planner has been current with respect to most of the natural environment issues advanced is that there has been no urban context whatsoever, so you have these areas—woodlots, ravines, drainage systems etc.—that have been in typically rural areas, and as urban development expands to embrace those areas, greater public pressure and use comes before them, and they do fundamentally change just by virtue of the fact that there is an expanding municipality. I believe the new policy statements invite consideration of that urban function that these natural environment areas will now be fulfilling.

Similarly, we as an institute commend—those legitimate environmental features that should be preserved should have some teeth in the policies, and I believe those teeth are there.

Mr Carr: If you were going to talk to somebody in your community who would say to you, "In the broad sense, what's going to be the difference for your members between Bills 20 and 163?" what would you say the big difference between the two bills would be?

Mr Riley: In general terms, I would say it provides some degree of flexibility. It's not as rigid as Bill 163, and there is room for the flexibility. I think in today's environment we need that.

Mr Carr: Just in the larger picture, what do you think is going to happen for your membership over the next little while? You've had some tough times. Along with this bill and everything else, what do you see happening over the next year or so?

Mr Riley: To our membership?

Mr Carr: Yes, your membership.

Mr Riley: Well, if something doesn't happen quick, we won't have much.

Mr Carr: And this will certainly help.

Mr Riley: We believe it will. It's certainly a giant step forward.

Mr Carr: I don't think we have much time, but just if there are some of the other things we could do, since we are a committee and we don't get too much of a chance to get down here and speak to you, what else should we be doing to help your membership so that we do have a few around a year from now?

Mr Riley: Anything that would stimulate the building industry. I can't be more specific than that.

Mr Carr: Okay, thanks. Good luck to you and your members.

The Chair: Thank you, gentlemen, for taking the time to make a presentation before us today. We appreciate your comments.

GEOFFREY SINGER

The Chair: Our next presentation will be from Mr Geoffrey Singer. Good afternoon and welcome to the committee. We have 30 minutes for you to divide as you see fit between a presentation and question-and-answer.

Mr Geoffrey Singer: Thank you very much for the opportunity to speak to you all here today on this important issue. My name is Geoffrey Singer and I am a land use planner practising in Ontario. At present I am completing a master of public administration through the University of Western Ontario's local government program, and I also am currently serving as a research intern at the city of London. However, the views I am presenting here today are my own, based on my experience practising in the field.

I have heard a number of differing views expressed about the meaning and significance of Bill 20. It has been suggested that the planning reforms instituted by the former NDP government are now history. It has also been said that Bill 20 merely represents a fine-tuning to the Planning Act amendments that were introduced by Bill 163. I suppose my own interpretation probably falls somewhere between these two extremes. Certainly the provisions of Bill 20 seem to fall short of the promise made by this government in the September throne speech to "dismantle" the Planning Act.

In considering the need for this legislation, I must agree that there were some definite problems with Bill 163. In following up on the Sewell commission's recommendations, the previous government had a very difficult balance to strike between a number of widely diverging interests in the land use planning process, and I suspect they didn't get it quite right. However, we will never actually know for certain now. The new planning system had only been in place for about eight months when this bill went to first reading, and as I understand it only a small number of planning applications were received during this time because of the rush which occurred last year prior to the coming into force of the new planning system.

It was for this reason that I found the rationale used in introducing this legislation, that the planning system somehow constitutes an obstacle to economic recovery, somewhat questionable. I certainly do not deny that Bill 163 has incurred the scorn of the province's development industry. However, with the backlog of applications awaiting approval under the pre-Bill 163 planning system, I find it difficult to draw any meaningful relationship between the new planning system and the current prospects for economic recovery in the province. While I think the Bill 163 reforms would have eventually proved to require some changes and various tinkering, the introduction of this legislation at this time is in fact based primarily on the government's haste to send out the message that Ontario is open for business again and not on any truly identified deficiencies in the new planning system.

However, that being said, it seems clear to me that the government is none the less determined to go ahead at this time with its own reforms to the planning system, so I'll turn my attention now to the specifics of the bill before this committee. For the sake of brevity, I won't touch all the aspects of the bill. I certainly don't profess to be an expert on all aspects of municipal planning.

Despite my concern over the haste with which this government has proceeded with planning reform, there are several things in this bill which I do see as positive steps.

1400

I agree with the decision to revoke the restrictions on the zoning power introduced by Bill 120. I strongly support the principle of residential intensification. I currently reside in an accessory unit myself. However, I did not agree with the decision of the previous government to take this decision out of the hands of municipal councils. This issue should be a matter of local choice. Municipalities should be able to decide upon the appropriate level of residential intensification and its geographical distribution within their communities. If certain municipalities decide to widely discourage second residential units within their boundaries, I believe it is to their own detriment, and the province should use less forceful methods of convincing them of this.

A number of municipalities had also expressed legitimate concerns over safety in second units. I think the power to pass bylaws with respect to the enforcement of property standards as well as to establish a registry of accessory units is a positive step in addressing these concerns.

I also agree with the removal of the power introduced by Bill 163 to zone environmentally sensitive lands in such a way as to prevent all uses. Planning and zoning are concerned with use, not with non-use. Complete sterilization of land is therefore inconsistent with the purposes of the act. If municipal councils or other planning authorities do not wish lands to be used, they must acquire the title to those lands and exercise their option as owners to not use them. Placing this burden on private land owners is excessively onerous and in my opinion unfair.

I further agree with the removal of the requirement to hold public meetings with respect to proposed plans of subdivision or consents. Public participation is an essential component of any successful municipal planning program. However, residents, businesses and interest groups have ample opportunity to learn about and make representation on proposed developments either at the time of a comprehensive official plan review or a site-specific official plan amendment. In fact, it may only serve to confuse the public if the official plan and plan of subdivision meetings for the very same development are held at two separate junctures in the approvals process.

I am somewhat at a loss, however, to understand the rationale behind the new shorter time frames for approval authorities to approve applications, in that they seem to have been arbitrarily shortened. I say this because these time frames were initially introduced by Bill 163. Prior to this, there were no time frames for approval authorities, and applications could be held up for years as a result. Because the new planning system under Bill 163 has not really been tested, I do not think there is a sufficient basis at this time for determining whether the time frames are appropriate or not. I'm also concerned as to whether approval authorities have the administrative capacity to meet these new deadlines, given that the financial and human resources they have to work with are continuing to be eroded, primarily through fiscal constraints imposed by the provincial government. Obviously the status quo in which development approvals can take numerous years is unacceptable. However, I worry that the integrity and quality of planning decisions could be unacceptably compromised by these extremely shortened time frames.

I am also somewhat concerned by the new ability of the minister to allow approval authorities to pass bylaws exempting a plan or a proposed official plan amendment from approval. This would seem to come very close to violating the taboo in Ontario's planning culture of not allowing planning authorities to approve their own plans. I would hope this power would be exercised cautiously and not used as a means of arbitrarily allowing certain developments to effectively bypass the planning process.

I would now like to turn my attention to the provisions of the bill which would amend section 3 of the Planning Act. This has turned out to be the most contentious and controversial section of this bill, and I think with good reason. If you'll indulge me for a moment with a brief history lesson, I'd like to discuss the prehistory to this amendment.

The main thrust of the Sewell commission's recommendations was that the planning system should be policy driven with provincial interests clearly spelled out and

given formal status. One of the previous problems endemic to Ontario's planning system had been the bewildering array of various policy expressions, all with varying degrees of status. At one end of the spectrum were the numerous operating policies relied upon by plan review staff in reviewing applications but lacking any formal political sanction. At the other end of the spectrum were the six individual policies formally adopted by cabinet, four of which were adopted pursuant to section 3 of the act and two of which were not. Needless to say, this state of affairs generated considerable confusion and disagreement with the different stakeholders in the process often relying upon the different policies and guidelines to far different degrees.

However, at the core of the problem was section 3. Introduced into the act as part of the 1983 reforms, it was intended to give a formal status to land use policy to ensure that provincial interests were protected in local decision-making. The section required that in making decisions on any planning matters all planning bodies, including local councils, provincial ministers and the municipal board have regard to the policy statements adopted by cabinet. As the four section 3 policies were adopted in the following years, this wording created considerable implementation problems. What exactly does it mean to have regard to a policy? The general consensus which emerged, and tended to be backed by the courts, was that it was sufficient for planning bodies to acknowledge that the policy in fact exists but to then effectively ignore it. In other words, cabinet's policies could not simply be dismissed out of hand.

This position could often be defended by reference to the circumstances of a particular application to show that the policy had in fact been regarded but the decision was then made that it was not applicable in that instance. The situation became somewhat ridiculous with the introduction of the wetlands policy statement in 1992 which used particularly strong language when it stated, "All planning jurisdictions...within the province shall protect provincially significant wetlands." In other words, the policy internally used imperative language, but was enforced by legislation which used suggestive or voluntary language.

The Sewell commission recognized this weakness in the system. It also realized that a requirement that planning decisions conform to policies, as lower-tier plans must do to upper-tier plans, was too strong and would excessively restrict local decision-making autonomy. Its recommendation that planning decisions be consistent with provincial policies was considered a workable compromise by the previous government and by many different players in the planning process.

I am therefore quite surprised that Bill 20 includes a provision to revert to the previous wording of section 3. I would remind the government through this committee that the previous wording was clearly not working and it was not just Mr Sewell who thought so. It seemed that no one, including local councils, the municipal board, or even the lawyers in the ministry really understood what it meant to have regard to policies or when that test had been met. If the government intends to revert to this wording, it should clearly spell out its expectations. Unfortunately, the draft of the new provincial policy

statement issued by the ministry last month is not much help in clarifying this matter. In the "Implementation and Interpretation" section it reads:

"These policies are to be applied in dealing with planning matters. Official plans will integrate all applicable provincial policies and apply appropriate land use designations and policies. Where applications are submitted under the Planning Act and any other act, all applicable policies and provisions should apply where reasonable."

I fail to understand how official plans can be expected to integrate the policies if the decisions to adopt the plans themselves do not need to be consistent with the policies. With respect to the applicability of the policies to applications submitted under the act, what is considered reasonable? I would suggest that this amendment to the act is seen as a quick fix and that the government has not really gone through the process of thoroughly defining its expectations from the local planning process. It seems to me that it almost might be more beneficial to avoid the confusion, bickering and great expense that would surely ensue and simply eliminate section 3 altogether rather than revert to the previous wording.

Obviously, however, my preference is to leave this section of the act alone. It is my submission that there is nothing wrong with the current wording and that it is only the comprehensive policy statement itself which requires amending. This relates to my earlier comment that there is nothing in the new planning system which we have actually had time to identify as a deficiency. If the policy statement under the act makes this government uncomfortable, then it is the policy statement which should be changed. I would urge the committee to give careful consideration as to whether this amendment is really needed and what the consequences of enacting it will be. To my view, this is not a partisan issue. It is not about restricting local decision-making and it is not a matter of pitting economic growth against environmental and social concerns. It is a matter of planning practitioners, local decision-makers and land developers being able to clearly know ahead of time what the province expects of them.

I'd like to make a few additional comments in closing. Although, as I have already mentioned, I was somewhat disturbed by the haste with which this government has moved on planning reform, what has disturbed me more is the relatively secretive and quiet way in which it has been done. When the previous government reformed the planning system, it was done in what I would describe as an open and participatory manner. The ministry ensured that everyone on the Sewell commission's mailing list was sent a copy of Bill 163, the new comprehensive policy statement and a booklet explaining all the proposed changes. When the bill was enacted as law, another package was sent out explaining the finalized version of the reforms. In essence, the government realized that it was necessary to keep all stakeholders, including planning practitioners, involved in the process if they were to buy into the reforms.

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By contrast, this government has proposed to bring about some significant changes and did not feel that it was necessary to inform these same stakeholders. I'd

heard various rumblings about the government moving to scrap or dismantle Bill 163, but until I read about it in my professional journal I had no idea that the minister had introduced the bill, and that was about a month and a half after the fact. Similarly, I only found out last week through a colleague that a draft of the new provincial policy statement had been issued more than a month ago. It seems to me that if the government expects practitioners such as myself to buy into these reforms, it ought to inform us that they are occurring and invite us to participate in the process.

Finally, I wish to sound one more note of caution. In some jurisdictions the role of planning and planners in the land development process has been increasingly diminished in recent years. I know that when John Sewell appeared before this committee a couple of weeks ago he said that some of the proposed changes in the bill "would substantially denigrate the role of planning in Ontario." I am not sure that I completely agree with this assessment. In some ways, this bill can be seen as affirming this government's commitment to both planning and planning reform. But what I think is important to stress is that the government should guard itself against entering a mindset where it sees all planning as inherently obstructive, economically stifling or an affront to property rights.

I found it somewhat alarming therefore to discover that another bill introduced into the Legislature, Bill 11, would place property rights directly in the Human Rights Code. I am not entirely sure what this means in practical terms. However, it seems to me that this runs counter to one of the cornerstones of Canadian constitutional law, that the property rights of the individual are not absolute and are subject to certain limitations in accordance with the greater needs of society. I truly hope Bill 11 does not signal the beginning of us sliding down that slippery path which the Americans have already been down with their experience in takings law, a series of Supreme Court decisions which in some cases have resulted in local governments having to financially compensate land owners for rezoning their properties.

Planning should be seen as a value added activity. It advocates on behalf of broad societal interests and promotes the building and strengthening of healthy communities. Planners have often had a difficult struggle communicating to the public and elected officials the value of proper planning because it tends to be a somewhat vague concept to articulate and measure. But the benefits of proper planning do exist and accrue to us all in terms of the quality of the communities in which we live. I would hope that this committee will bear this in mind as it considers and deliberates upon these important reforms.

That concludes my presentation, Mr Chair.

The Chair: Thank you, Mr Singer. You've left us five minutes per caucus for questioning. The questioning this time will commence with the third party.

Mr Christopherson: Thank you very much for your very thought-provoking presentation. You clearly spent a lot of time thinking it through. I want to say that your statement, "planning should be seen as a value added activity"—that's a great line. I like that. If you don't mind, where I can I'll give you credit for it. I think that's a great line.

Mr Singer: Thank you very much.

Mr Christopherson: I agree with it wholeheartedly and I think it's well put. However, having said that, when I add up all of the things that you thought through, and looked at the various positions you've taken, with respect, I would suggest you'd better be careful or you'll end up a Liberal.

Mr Singer: Maybe I already am a Liberal.

Mr Christopherson: I say that tongue in cheek.

Mr Hardeman: What do you mean, "end up"?

Mr Baird: You don't have to put up with this.

Mr Christopherson: That's right. Earlier today, the London Home Builders' Association made a presentation and they said in part that one of their fundamental policies is that the government has a legitimate role in housing the needy and disadvantaged in Canada. Do you agree with that?

Mr Singer: The government as in the provincial government, or local governments?

Mr Christopherson: They don't specify, but it's in the context of making a presentation to us, so I would assume they're including the provincial government.

Mr Singer: I would agree with that statement. I agree with the thrust of most housing policy at all levels of government actually.

Mr Christopherson: I toyed between what I wanted to focus on, the "have regard to" or another area, but given the thought that you've put into this I thought you'd probably appreciate being not challenged but maybe pushed a bit. Some of your thinking around the accessory apartments I found quite interesting, given that you live in one. Obviously, in agreeing with that statement, you sense there is at least in our society a legitimate role for government in ensuring that there's an availability of decent, affordable housing for people to some degree. Obviously, I share that sentiment. But you didn't feel that the as-of-right provisions we had in 163 were correct, and I wanted to ask you, taken to its extreme, if every municipality opted out, where would that leave a young person like yourself? I assume you needed an accessory apartment because you were a student and on limited income. There are others, there are seniors, the disabled, the poor themselves. A lot of them are families, women with children. If every municipality opted out, and given these kind of difficult times that's at least plausible, where would that leave both the people that are affected, and also where would it leave the governments that you've already agreed have some responsibility to make sure a decent housing stock is provided for?

Mr Singer: I definitely agree it's a problem. I know that the Land Use Planning for Housing policy statement was introduced in 1989 by the previous Liberal government, and I know that subsequent to that the NDP government identified some implementation problems with. That resulted in the discussion paper which basically said: "We're not achieving our housing goals. We're going to have to take stronger action and create this as-of-right legislation."

I guess my problem is that I didn't disagree with the purpose of the bill. I agree that we need a plentiful supply of affordable housing and that it's not out there now. I think it was more with the tactic that the province

used. It just seemed to me that it was very heavy-handed, and it created a lot of bad blood between the province and municipalities, and there must have been some other approach that could be taken.

I think one approach would be that if we strengthen the implementation provisions for the comprehensive policy statement, that perhaps the housing policies could be used as a means of leverage for municipalities.

Mr Christopherson: The difficulty there of course is in the context of Bill 20 with the changes back to "have regard to," that really you could argue that the policies themselves don't matter much, and I can't believe for a minute the Tories are going to put in place anything close to what we had in actual legislation. So you're still left chasing your tail.

Mr Singer: I agree. I guess I don't really have an answer to that. As I mentioned, I had a problem with the approach that was used by forcing municipalities to create this as of right, but I agree with you, this is certainly a problem that still has to be addressed.

Mr Christopherson: We legitimately searched. Nobody enjoys being any more heavy-handed than they have to, but when you're dealing with issues such as the provision of decent housing, when you're dealing with the environment and other matters where local governments can face pressures, because I served on municipal council so I have an understanding of that world, and the pressures that can come upon a local council are different than that upon a province, and it's easier for a senior level of government to hold to some principles that are important for all of us over a long period of time.

I guess my biggest concern about adding up everything the government's proposing here is that those that don't have, once again are going to be the losers, and those that have are about to get more. Any thoughts on that? Do you find that too harsh?

Mr Singer: Perhaps a little harsh. Again, I don't really know what the answer is. Perhaps the answer is to require that municipalities provide a certain level or standard of affordable housing within their communities, but not to necessarily say across the board every single house is entitled to have a second unit in it.

Mr Christopherson: If you worry about slippery slopes, there is one. Again, sitting on councils, I can tell you, once you start down that road, there's always a good reason why a given area shouldn't have accessory apartments—wrongly, I would add, of course.

Mr Singer: Perhaps I would amend my earlier comments then by saying that this housing issue still needs to be addressed.

Mr Christopherson: I want to thank you. You really put a lot of thought into this, and it showed. I wish you well in your career. I think you're someone who shows some real ability for the future.

Mr Galt: Thank you, Mr Singer, for a very well-articulated paper, and I do hope you can use it in two sources: once here and once in your course. I expect it's going to be a major paper for one of your subjects.

Mr Singer: That's the plan.

Mr Christopherson: You see, planning is important.

Mr Galt: You got quite excited when you came to page 5. On many occasions, I've been questioning on

these environmentally sensitive lands, who pays? Up on the top, finally—maybe it's because you're probably the youngest one to present to these hearings—you come up with a suggestion that maybe municipal councils or planning authorities should. "Placing this burden on private land owners is excessively onerous and, in my opinion, unfair."

I have to agree with you. Certainly farmers have been caught with this on many occasions. Have you looked any further, joint ventures, interest groups? Have you had any other thoughts is what my question's coming around to?

Mr Singer: No. I haven't specifically looked at any mechanisms that might be used. Certainly, I think the opportunities could be there for various joint ventures and what not. I guess the point I was trying to make here as well is that planning and zoning may greatly restrict the use of land, but legislation or bylaws that say you cannot use your lands at all—there's a fundamental problem with that, and I think that most lands can be used for something.

1420 Again, I think in the previous presentation the issue was brought up about hazardous sites and landfills and what not, and what do you do with those lands and what sorts of uses can you allow, and obviously that's going to be a problem.

To answer your question, I haven't really looked at any other mechanisms that might be used.

Mr Galt: We can play with all kinds of wording. It all depends on the political will and often the political will relates to economics. If the economics are not there and sound, it doesn't matter what the wording is, it probably won't fly.

Mr Singer: Right. My fear actually was that Bill 20 was going to take out these sections altogether that had been introduced by Bill 163, that recognize that perhaps environmental protection itself is a legitimate land use designation. Certainly, I agreed with that. But then to say that it's also a non-use, that was perhaps just going a little too far.

Mr Hardeman: Thank you, Mr Singer, for the presentation. Just a quick comment, on page 2, I understand only a small number of planning applications were received during the time of Bill 163, and that's because there was a major event just prior to that. Would you not suggest maybe that in fact it was Bill 163 that created those mass applications prior to it being implemented? Secondly, on the next page you mention that we may be passing this act just to tell the world that Ontario's open for business again. I wondered if you would attribute that as a negative statement, or is it a positive statement that in fact Ontario is open for business again.

Mr Singer: I guess actually to address that second point first: My concern was that—I don't think there's anything wrong with sending out the message that Ontario is open for business again. I think, if anything, that is the message we should be sending out. It just seemed to me that perhaps Bill 163 was a sacrificial lamb, that it wasn't going to make any substantial or material difference whether or not we got rid of it. It's just that the act of doing so was sending out that message, and perhaps there might be smarter ways to do that.

But with respect to your first point, certainly Bill 163 caused that great rush last March. I've no doubt about that. In fact, it's interesting to see that there was sort of this blip last March where it looked like development activity in the province—we were out of the recession, and there was this great flood of applications.

I think that was also in large part a result of some—as much as the new system was sold by and explained by the last government, I think there was a lot of scare-mongering out there as well as to what the effect of Bill 163 would be. I think that in part caused that rush, but I think that was to be expected.

Mr Conway: I want to join my colleagues on the committee and say that this is a very lively brief. I certainly enjoyed it a great deal. I want to wish you well with its submission to whatever other tribunals it finds its way towards.

The fundamental question, and you address this on pages 7, 8 and 9 of the brief, that's the tension between—well, for the committee, I think it's "shall be consistent with" and "have regard to." I'm certainly no planner. I'm like a lot of people on this committee, some of whom are planners and others, many of whom have sat on a local government, I've done neither, but the problem I see is that on the one hand—my preference by the way is for local decision-making.

Your brief I think is excellent in that it points out that we may be entering a period of time where local technical resources may not be as flush as they once were, although that remains to be seen. But my question is, how do we resolve this basic problem that a lot of people I know and represent would see. On the one hand, you have a set of policies that are mandated from wherever, Toronto, Winnipeg, Ottawa, but they're a long way from Main Street or the back concession of township X. While the intentions are good, it is quite clear to people who have to live with the consequences that whomsoever wrote these policies knows nothing about the environment in which they're going to be applied. That's the one problem.

The other problem, of course, is that for those of us who'd like to see some local decision-making, we see some local decision-making all right that sometimes, more often than perhaps we might like, for whatever good reason, succumbs to very short-term and often bad planning, that has sometimes led to huge mistakes and very costly bills.

How do we balance that? You seem to come down on the side of "shall be consistent with." My challenge to you is, if you can show me, Mr Planner, that you're going to write a set of rules in Toronto that are not going to make you and me look like idiots in Rainy River, I might be willing to play your game, but there's just too much past experience to suggest that you can't do that.

Mr Singer: Perhaps that may be an impossible task. I think the one real hurdle which we're probably never going to pass is convincing the public really that there are certain sacrifices that need to be made now to ensure that development is sustainable in the future. I think what the policies come down to in great part is the need to look out for future generations as well. If we weren't looking out for future generations, then I don't think there would be a need to look out for a lot of these interests.

Mr Conway: I remember—and not that many years ago; I'll take it back—before I think anybody around here was here except myself. But Mr Hardeman is here and he's a wonderful fellow, and he had a predecessor who was a great guy named Harry Parrott. Dr Parrott came to the Legislature 15 years ago, or less I suppose, on behalf of the government of Ontario that is full of bright, well-educated people. On behalf of the government of Ontario, the Minister of the Environment proposed to put a toxic waste facility in the Grand River basin down near Cayuga where apparently any nearly brain-dead hydrogeologist would tell you there's trouble everywhere. Now we ourselves proposed to do that.

Mr Singer: A lot of the problem is that too many decisions are made in Toronto. I think the province perhaps could express its interest more regionally. I think it was a real tragedy when three years ago a number of the field offices were closed down because, even if it's just symbolic, the idea that there are provincial resources distributed throughout the province available for municipalities to draw on, I think has a really strong effect as opposed to decisions all coming from Toronto.

Mr Conway: But presumably all these bright people who worked in the Ontario government itself must have known that that proposal—I'm just using one that comes to mind. There are many. You ask yourself, how do these things happen?

Mr Singer: I don't know. I couldn't tell you what the mindset was there.

The Chair: Thank you very much, Mr Singer, for taking the time to make a presentation before us here today.

LONDON CHAMBER OF COMMERCE

The Chair: Our next presentation will be from the London Chamber of Commerce. Good afternoon, gentlemen. Welcome to the committee and again we have 30 minutes for you to use as you see fit, divided between presentation and question-and-answer period.

Mr Gary Blazak: Thank you. My name is Gary Blazak. I'm the vice-chair of policy at the London Chamber of Commerce. My colleague is John Henricks. He's the chairman of the chamber of commerce planning task force that looks at municipal-provincial planning matters. By way of introduction, we are both professional consulting planners practising here in the city of London and environs.

Although we come today representing the London Chamber of Commerce, which is the largest business organization in the city and environs, collectively, our 1,000 corporate members employ approximately 50,000 people in this city and today we're speaking as professional planners on behalf of the wider chamber membership.

The chamber of commerce has regularly commented on planning, development and provincial planning policy issues in the past. We were very active in our comments to the Sewell commission and we rarely miss an opportunity to comment on momentous provincial changes in policy or legislation which we feel will affect our membership and virtually all changes in provincial legislation affect our membership.

We're organizing our presentation today around four key topics. We apologize that we have preceded our paper and we're hopeful that the copies of the paper will arrive during our presentation or shortly thereafter to provide you with written text.

My colleague Mr Henricks will provide the basic text of the paper to you in verbal form and then I will attempt to sum up at the end before we throw it open to you for questions.

Mr John Henricks: The interim report of the Sewell commission offered a vision of a streamlined development approval system in which broad policies at the provincial level would define the boundaries within which municipalities would have expanded planning authority. However, the legislative and regulatory changes that were finally implemented at the conclusion of the Sewell process bore little resemblance to that vision, leaving little room for expanded local autonomy in the planning and development approval process. We believe that the revised policies presented as part of Bill 20 represent a better approach to the elimination of bureaucratic red tape and expedited planning approvals.

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We're recommending that the draft legislation wording proposed, that municipalities "have regard to" provincial policies, be retained. We think that's a positive change in the legislation.

In terms of the planning process, the London chamber feels that Ontario must have a planning process that facilitates economic development and allows this province to compete with other jurisdictions on a level playing field. We are therefore supportive of any and all changes proposed for reducing the time for planning approvals. Delegation of as much of this responsibility as possible to municipalities would be a good place to start. These changes are needed to ensure a more positive climate for growth. Let Ontario municipalities compete on equal grounds with foreign jurisdictions that are not encumbered by the bureaucracies of senior government. We might be looking south for that example.

We still see many opportunities for appeals that will disrupt the process of local decision-making. Before we get into that, the London Chamber of Commerce continues to support maintaining the Ontario Municipal Board. The OMB appeals process as it now exists does, however, require some overhaul.

We urge the province to consider implementing Sewell's original recommendation that would require the OMB to hold procedural meetings within 30 days of the OMB receiving a legitimate appeal. This approach would quickly resolve many appeals and, in our view, reduce the backlog of cases before the board.

We still see many opportunities, as I was noting earlier, for appeals that are going to disrupt the process of local decision-making. The issues at stake in any appeal should relate to a development's compliance with principles expressed in approved official plans and the proposed provincial policies. Hard evidence demonstrating non-compliance with these documents should be a prerequisite of any appeal or referral that's accepted for a hearing by the Ontario Municipal Board. In a similar vein, no development proposal should be eligible for

more than one appeal or referral as a condition of its approval or dismissal. Offering multiple opportunities for appeal of any one development adds nothing to the range of issues to be considered, but considerably increases the potential for delays and costs involved in such developments.

To summarize, our recommendations:

That the Ontario Municipal Board should be entrusted with discretion in evaluating the merits of an appeal or referral based on hard evidence of a contravention of local or provincial planning policy.

That the province consider requiring the Ontario Municipal Board to hold a procedural meeting within 30 days of receiving an appeal.

That the government consider a consolidation of what currently amounts to multiple opportunities to appeal against a single development, all based on a single set of issues.

That the province allow for implementation of a development permit system.

I should elaborate on that, so bear with me. The chamber has noted that the development permit system originally was introduced by Bill 163 as a streamlining measure, although it has not been widely implemented, if it's been implemented at all for that matter. The chamber is supportive of any changes in the development review system that will reduce costly and unnecessary delays. Potentially the development permit system offers that opportunity. We look forward to seeing how it may be implemented, perhaps through test programs or otherwise, again leaving that open to local municipalities to decide upon.

As mentioned previously, we believe that an appropriately designed provincial policy statement will allow for more local control of the development approval process. We urge the province, in the strongest terms possible, to give local municipalities approval authority for all official plan amendments and subdivisions.

We do not support a system where individual ministries are allowed to file objections. Ontario's planning process must require the province to present a unified position that reflects the province's priorities, not those of individual ministries. To ensure accountability at all levels of government, each level must be required to present a position that it believes to be in the unqualified interest of the general public.

In summary, the recommendations:

That the province give local municipalities approval authorities for official plan amendments and subdivisions.

That only the Ministry of Municipal Affairs and Housing be allowed to appeal official plans and official plan amendments. These appeals, like any others, would have to be based upon hard evidence of non-compliance as noted herein, before being accepted by the OMB for a hearing.

Development charges: We know that the bill doesn't specifically jump into this issue a great deal, but we felt it was an opportunity to make our views known to this committee. As a general principle, the chamber recommends that only what are commonly referred to as hard services be addressed in development charges bylaws. The chamber believes that using development charges to

fund soft-service expansion, such as schools, recreation facilities etc—the list is there—is inappropriate and can lead to wasteful spending practices. It is, after all, the so-called soft-service calculations which often are most open to debate and criticism.

With that, Mr Blazak will close and we'll be ready for questions.

Mr Blazak: In essence, if we can summarize the position of the London Chamber of Commerce in three words it would be: Download, streamline and expedite. We've included these words at the end of our presentation in bold. We're asking you to download responsibility for planning approvals to local jurisdictions. We're asking you to streamline planning administration; red tape is bad for business. We're asking you to expedite planning approvals. We feel that the Ontario Municipal Board is an appropriate body for establishing correct decisions in planning disputes, but in some respects it should be given more power to cut through the wheat and the chaff, to find out what is really important and what is really worthy of a hearing. In many respects, if we can eliminate unnecessary Ontario Municipal Board hearings, if we can eliminate unnecessary provincial jurisdictions in the approval process, we will expedite economic development in this province. Thank you.

The Chair: Thank you, gentlemen. You've left us seven minutes per caucus for questioning. This round will start with the government.

Mr Jerry J. Ouellette (Oshawa): Thank you for your presentation. I just have a question more relating to the actual practices of the organizations you represent. Yesterday a presentation would have had us believe that a standard practice would be for site developers or site speculators to purchase property, submit a plan where it's approved and then flip the property to an actual developer who would then develop the site and revise the plan without allowing any public input at all. Is this the normal practice? What sort of percentages of actual activity does this represent in the development of properties?

Mr Blazak: I would say it's not an uncommon practice to buy a piece of property which comes with an approved plan and then to sell it to someone else who intends to develop it, making changes to the site plan. It's a well-known practice in Ontario that that part of the planning process doesn't include significant opportunities for public notification and public input. But it should be kept in mind that when site plan approvals are proceeding before the local jurisdiction—for example, if it's the city of London—most of the significant planning issues should have been decided well in advance. All of the policy issues are well cleared by that point. The regulatory issues, as reflected by zoning, and generally these are the things that concern a neighbourhood or adjacent property dwellers, should have been cleared long before the site plan approval process. My colleague will speak further on his experience with the development permit system in other jurisdictions and perhaps that will give you some insight.

Mr Henricks: Before I do that, there is a practice in many municipalities wherein they would require a public meeting for a site plan where they felt that the particular site involved was going to be contentious. There's an

opportunity through the current system to deal with that. We have seen examples where a site's been zoned for development and then, when the site is proceeding further into the process, the council often has provided for the opportunity to come back to the public with the specific application. We found ourselves in that on more than one occasion. Certainly in that context we're seeing municipalities making the decision to ensure that the public gets another kick at input, if you will. Again, that becomes a local decision-making process.

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Mr Bob Wood (London South): I'd like to ask you about two points. The first is that you have suggested, in effect, a performance criterion with respect to the OMB: They have to hold their first meeting on something within 30 days. Have you given any thought to a full set of performance criteria for a body like the OMB, where they would have to, say, start their actual hearings in a certain number of days and have to have various steps happen within a certain time period?

Mr Henricks: To get to the specific point of 30 days, that was coming out of Sewell's original recommendations. Certainly the members of our committee who were looking at this issue said that seems to be a good thing. It gets it to the board quickly and if there are frivolous objections, we're going to have an opportunity to flush that out quickly and we'll perhaps eliminate a lot of the backlog. So that seemed to us to be a good suggestion and one worth considering. If there are other appropriate means of accomplishing the same objective, fine. We were simply identifying something that had come out of a public process and saying, let's take a hard look at that, because the objective of it is sound. Let's flush it out; let's not have all these frivolous appeals going to the board.

The other suggestion that we've identified in this paper, which I'll let Gary touch on, is if the board feels that the objection is frivolous in nature. If it is consistent with local policy, then let's move it along. If it's clearly counterproductive, then let's reject it.

Mr Blazak: I've been before the Ontario Municipal Board as a professional planner more than 100 times on matters, representing both rural and urban interest. I've represented municipalities, neighbourhood associations and developers. Of the 110 or 120 hearings that I've attended, half of them have been unnecessary. There's been no reason for a hearing. They were items or issues that could have been resolved or mediated outside of the jurisdiction of the board, let alone the nine- to 18-month wait to get to the board. The costs involved in this are enormous to both the province and the private sector. It just increases the red tape involved in development approvals.

Many of these issues can be sorted out by the Ontario Municipal Board in advance of a decision to make a hearing. The board, if it had an expanded jurisdiction, could look at some very distinct evaluation criteria. The two that we've suggested in our memorandum are: Does the proposal adhere to provincial policy? Does the proposal adhere to local policy? If it does not, then the board should exercise its discretion to hold a hearing.

But unless there is some hard evidence demonstrating non-compliance with approved local policy and approved

provincial policy of the day, the board's time is wasted, the private sector's time is wasted and, to a certain extent, so is the public's time wasted in having hearings, because we're going to get to the board and we're going to determine that there really weren't sufficient grounds in the final analysis to hold the hearing. We maintain that this determination should be made before an issue reaches a full hearing.

Mr Bob Wood: Do we have any time left, Mr Chair?

The Chair: You have about one minute.

Mr Bob Wood: I'd like to ask you to comment very briefly on the development charges issue. We know it's a problem. We know some municipalities have been looking at that as a revenue stream. You've enunciated a general principle but haven't really said how you would go about enforcing that. Have you given any thought to how the province should go about enforcing what you point out in your paper about development charges?

Mr Henricks: Change the legislation and make it clearer that it applies to hard services only.

Mr Bob Wood: Have you given any thought to how we would make them do that, so to speak?

Mr Blazak: A provincial statute would be the authority for adopting a local development charges bylaw, and if that provincial statute defined narrower territory that the local development charges bylaw could implement, that to us would appear to be the solution. It appears to be fairly simple.

The problem we have now is that over the last five to 10 years, and over the last five years in particular, there has been an ever-expanding reliance on development charges, and as that expansion of the eligible issues for development charges increases, so do the grey areas as to what truly is caused by the development in terms of hardship in the municipality for required services. Previous to the NDP government, development charges were clearly restricted to hard services, what we commonly refer to as infrastructure services: sewers, water-mains, arterial roads. There was very little debate about the necessity for those services in a municipality. But when we stray into the area of soft services—parks and recreation, quality-of-life services—there's always a debate as to the necessity for them, the nature of them, the location of them. We maintain that development charges are not the appropriate area to corral those services to determine the need and to contribute to their cost.

Mr Conway: Gentlemen, a very good brief and to the point. You are going to win the day on downloading, streamlining and expedition; I think there's no doubt that's going to occur. I want to just make a couple of observations. You mention on the top of page 3 that you like that part of the bill that gives the one-window approach through the Ministry of Municipal Affairs and Housing. I do too, actually; theoretically, I think it's quite powerful. But knowing what I know about the Ontario government, I can just imagine the Ministry of Finance. The Ministry of Finance and the Ministry of Health agree on virtually nothing. We had a witness yesterday who made a wonderful case that the Ministry of Natural Resources is divided among its several selves. I can think of one celebrated case where the Ontario government got

itself into a hell of a mess because the several heads of the Ministry of Natural Resources couldn't agree on the time of day. Given the territorial imperatives of the several departments of this hydra-headed government we have, do you see any practical difficulties with these internal tensions working themselves in a way that doesn't bring them all through the one window in a timely fashion?

Mr Blazak: Personally, I do see some problems, and this has been made clear in other presentations—from the planners institute, for example—inasmuch as it does concentrate power among a few. Hopefully, power does not corrupt. We would anticipate that the people who are making the decisions at the Ministry of Municipal Affairs and Housing—for example, to refer an issue or not to refer an issue to the Ontario Municipal Board—would be the type of people the government could entrust to look after the interests of the general public or the wider issues of the province rather than the specific interests, albeit technical, of some of the other ministries, because they tend to have some very specific or technical interests. What may not be in the interests of one ministry may very well be in the interests of the general public, so it does put a lot of reliance on a given few.

Mr Conway: Don't misunderstand me. I like the idea of the one-window approach, but I sometimes think it's awfully naïve to imagine that the several interests within the government of Ontario—for example, it is in the interests of the Ministry of Health to spend money; it is in the interests of the treasury department not to spend money. I just worry that in the planning area. Think of Natural Resources, Environment, Agriculture. I can imagine a whole series of cases where even within the streamlined Ontario government they are not going to agree on very much about a particular development proposal. I just wonder if you have any advice as to how we ourselves can deal with—

Mr Henricks: I think you can be assured that if the government has hired competent planning professionals, along with other technical professionals, part of the role of any professional planner is to balance those competing interests, to take a look at those and to determine how best to develop a sound planning position. Presumably those who are hired by the government to help advise on what is a sound planning position in this particular instance are going to be able to do that competently. We're asked to do it every day; that's the nature of the profession. I'm not overly concerned about professionals being able to do that.

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Mr Conway: Let me use an example, again without prejudice, because I think this contaminated at least two governments that I'm aware of. One of them wasn't a New Democratic government, let me say to my friend from Hamilton. I remember getting a proposal around a domed stadium in Toronto. I remember all kinds of fascinating debate, much of it driven by the business and publishing élites in old Hometown, about this world-class facility that was, among everything else, fully financially self-sufficient.

Interjection.

Mr Conway: Oh yes, I remember. I remember getting assurances. I remember a fellow named Chris Stockwell.

I think he was one of the few people around saying, "I don't think this is to be believed." Of course he was right. There were others, but I just remember a lot of very good—interestingly, I remember chambers of commerce. That's why I'm prepared to pick on you guys a little bit. There are lot of good people there. They've got to know that however desirable a scheme this is, this thing, in a financial sense, is just built on a house of cards. Of course, the sceptics were right. But there was within the planning process, or within the political process, which was essentially Metro and the province, a complete incapacity to sort of beat back the boosteristic supporters of this quite elaborate and interesting scheme. Again, I wonder, how do good people like yourselves as planners get your flag above the fray and say, "Hey, hey," particularly in this new age where if you make a mistake—I'm a bit concerned about this because some of the bailouts we've offered in the past just aren't going to be possible any more, for all the good reasons that revolutionaries know better than I.

Mr Henricks: I love being able to throw this back at the politicians, but ultimately we're providing advice. It's up to the leadership of the day to make the decision and we have to live with those decisions.

Mr Conway: I appreciate that final observation. You smiled as you said it and I appreciate that.

As a former Education minister, I'm struck by this. I think your point around development charges is a good one and I appreciate it. I think of places like London. I haven't looked at the numbers lately; Ottawa-Carleton may be a better example. One does not need to build, for example, schools. They tend to be a pretty good place to start with some people, I guess. You don't need to spend any money. You could just simply put buses on from that part of London where there is a growth in school-aged population to all those wonderful facilities that you the taxpayer have built and paid for in other parts of the urban or suburban community, where of course you can have your pick of the school. I guess that's a matter of political leadership. Will the chamber really want to come with the municipal and provincial politicians into some of these beautiful new suburban areas of London or Ottawa or Windsor or Hamilton or Toronto and say: "Well, we've got a cure for part of this problem. We've got buses. We don't need to spend a sou on new schools if you'll just put your kids on these buses and travel 15 kilometres?"

Mr Blazak: I think the issue here is what's appropriate to capture in terms of revenue with the development charges vehicle.

Mr Conway: But you can see the problem, though, if you're the province or the local school board and we approve some very nice new growth. If I pay \$400,000 for a house in south London, I probably am going to expect that there's a school in the neighbourhood. The person who has to fund that bill is not necessarily the person who's going to be making some of the decisions that caused the development in the first instance.

Mr Blazak: That's true, and that debate will go on endlessly, well beyond this forum. Our point is that by restricting development charges to hard services, the debate ends because there's no doubt about the need and

size for a sewer or a watermain or an arterial road. That issue is clear-cut and is black and white. That's the appropriate vehicle to use development charges for.

Mr Christopherson: Thank you for your presentation. I found it quite interesting. First off, at the bottom of the page 1, you speak of the need for Ontario municipalities to "compete on equal grounds with foreign jurisdictions that are not encumbered by the bureaucracies of senior government." Can you just expand on that, what you mean by that exactly?

Mr Blazak: I'll expand on that because I'm the author of that particular phrase. I have development clients in southwestern Ontario that are actively being courted as we speak by Las Vegas, the state of Tennessee, the state of Kentucky. Those jurisdictions are willing to fly our development clients and their experts down there to get their investment in their jurisdictions. Those jurisdictions have nowhere near the bureaucracies, the red tape, the delays, the planning administration that we have here in Ontario. There are many negative things to be said about those jurisdictions, because perhaps they don't have the conscience when it comes to things such as environment and natural resources and the needs of society, but if this government is truly interested in enhancing economic development and in keeping Ontario investment money in Ontario, we'll do something about the red tape that pervades the planning process right now, because it's so much easier in so many other places to do business.

Mr Christopherson: Fair enough, and I respect the point of view. The difficulty I have with that is that in jettisoning all the things that you just listed as areas that they've watered down, at the end of the day for the average working person in this province there's not much of quality of life left in order to benefit from the economic stimulation that you're going after. My concern, and it's a concern that those of us who aren't comfortable with the free trade agreement have overall, is that we then get into a competing war of who is prepared to sell out the interests of their citizens the most to generate economic activity that's supposed to benefit the citizens the most. To me, it's a self-defeating approach. I have a great deal of difficulty with that, particularly as we talk about the environment and when we talk about social services and health care and all the other issues that you put under issues of conscience. I see your colleague champing at the bit. Please jump in.

Mr Henricks: I can't agree with that. In terms of what's been presented today, I think there's a balance between what you've identified as a concern and what my colleague here has identified as a business issue. We're trying to emphasize and provide balance. The combination of being a planning consultant and a member of the chamber of commerce, we're looking at issues that—we have business leaving Ontario. Jobs are leaving Ontario. Without jobs, there's no quality of life. So we've got to balance that. We've got to have jobs and those jobs have to stay in Ontario.

The balance here is that we are still looking at protecting the environment, we're still looking at dealing with issues of importance in terms of the land planning system. I'm satisfied that this is certainly coming closer to striking the balance that we need in the province of

Ontario, to balance quality of life with the economic issues. I'm quite confident that we're going to be able to, through further detail, find room for improvement here, but I think for the most part we're heading in very much the right direction.

Mr Christopherson: I guess "balance" always is going to be a subjective term. My concern would be that with the Newt Gingriches of the world going after things like the EPA, the Environmental Protection Agency, and other things under the guise of needing to compete, if we're getting into that argument, it's a slippery slope that we can't win. I'll leave that at that point and move on to the issue of the development charges.

Mr Wood—and if I'm wrongly paraphrasing him, I wish to be corrected—said that municipalities in some cases have used this as a revenue stream. I think one of the two of you mentioned that there's been an ever-expanding reliance by municipalities on this for income. Your answer to that was that you would like to see provincial statutes that limit what a municipality can consider to be soft services and what it can legitimately claim for development charges.

The question I have for you is, is there not an inherent contradiction in saying that we want decision-making to devolve down to the local level in almost every area you've referred to here in Bill 20, but as soon as we get into an area it hasn't gone the way that you would have preferred over the last few years, suddenly you want the province to step in and limit the ability? Is it not a fair argument to say what's good for the goose is good for the gander? If the local planning decisions should be made by local governments, then why limit it to areas of development charges? Why not let municipalities define for themselves what they consider to be fair charges given their market circumstances and their level of development?

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Mr Henricks: I'll give it the first go. In terms of the development charges, the chamber has been very consistent in its presentations locally to the city of London in terms of maintaining the charge and applying it only to hard services. I think we're simply trying to reiterate that philosophical position; we're doing that here.

On the other part of the question, I don't know, Gary, if you want to take a kick at that. I am less comfortable doing so.

Mr Blazak: Well, this issue is, how much rope do you extend to the municipalities? Do you let them have free rein with respect to development charges or do we still have some statutes on the books? I think the issue here is that it's appropriate and in municipalities' best interests and in the province's best interests as a whole to have statutes on the books. There are some widely disparate economic regions within the province, as you well know. What's necessarily good for the GTA is not necessarily good in southwestern Ontario. But the system that we're referring to is a throwback to the old days per se. In the old days—

Mr Conway: The good old days.

Mr Blazak: The good old days; that's right. When we had development charges extending only to hard services, municipalities and other jurisdictions that were entrusted

with providing soft services or educational services or whatever found a way, through the revenue streams that were available to them then, to provide the services the province needed. We suggest that we leave them to their own device in that regard and let them be creative in whatever way they want, but not on the backs of the development industry, which is crippled at the present time by the economic state of affairs in this province and elsewhere, and not on the backs of new home owners.

It's been a long-standing complaint from the development industry, and we hear it at the chamber all the time, that new home owners are expected to pay for all retrofitted services in the cities. That is the problem we have experienced by extending too much rope to municipalities in this regard.

The Chair: Thank you. I'm sorry, I'm going to have to cut you off. We're three minutes over already. Thank you both for taking the time to make a presentation before us here today.

Mr Conway: Have these two young men ever met Hazel McCallion? And if so, have you ever made that little speech in front of her?

COUNTY OF LAMBTON

The Chair: Our next presentation will be from the county of Lambton. Good afternoon and welcome to the committee. Again, we have 30 minutes for you to use as you see fit, divided between presentation time and a question-and-answer period.

Mr Malcolm Boyd: Thank you very much. My name is Malcolm Boyd. I'm the director of planning for the county of Lambton. I'm here only because the rest of county council is in Toronto at Good Roads—or Bad Roads, whatever you want to call it. I was there last night and today, and it's interesting: They're not talking much about roads; they're talking a lot about municipal restructuring and municipal financing. It's kind of amazing what's happening. Normally Warden Minielly would be here and the chairman would be here. They have asked if I could please present this on their behalf. This brief, of course, has been approved by county council, so it's the position of the county of Lambton.

To tell you quickly a little bit about the county, because I think a few of you are from the southwest, Lambton county is immediately west of Middlesex county. It occupies the full boundary of Middlesex. It goes as far as Lake Huron and the St Clair River to Michigan. Sarnia is a member municipality of the county of Lambton. Lambton has 120,000 people in it, and it goes from Kent county up to Huron. Grand Bend is mostly in Lambton county. It has very good farm land, is a very strong tourism area and has a very strong industrial base, obviously, with petrochemicals. So that just gives you a sense of where this brief is coming from in terms of the history of the county.

Mr Conway: You have to tell these people it's the home of Lorne Henderson, or shall I do that? Is Lorne still the town planner? No, that's—

Mr Boyd: Is Lorne still running the county? Well, Lorne always attends all of our functions and he's a still an integral part of the social makeup of the county.

The county of Lambton has over the years taken a great deal of interest in planning, and it's because the county has a county plan passed in 1980. We do comprehensive planning advisory services for 18 of the 19 municipalities. The city of Sarnia has retained its own planning department when they amalgamated in 1991. The county also has comprehensive plumbing inspection, building inspection, septic tank inspection, a number of things that have come to the county level which have dovetailed the administration of planning at the building inspection side to planning, to the zoning bylaws and official plans. And so Lambton really has taken it quite seriously.

Perhaps I'll just quickly go through the brief. The county of Lambton made formal responses to the Sewell commission, to the minister on the final report of the Sewell commission, on the comprehensive set of policy statements, and to the legislative committee which considered Bill 163. Virtually all of the comments and requests for changes made in all of our submissions to the last government were ignored.

One of the stated goals of the commission and the government was to add to local decision-making. They did the reverse. They imposed a highly centralized provincial policy-making framework at the expense of counties and local government. Public input into local decisions was overridden by the requirement for strict consistency with the detailed comprehensive set of provincial policies. And in case the policies missed anything, the government produced a book of guidelines over two inches thick.

Local planning documents were to become mere mirror images of provincial policy regardless of its relevance to the community. Even if a municipality did produce an official plan which tempered provincial policies somewhat to local conditions, a development proposal could no longer rely on the policies of that plan. Provincial policy was always to be paramount regardless of what municipal planning documents had concluded. There was no reason to undertake planning sensitive to local public input if that planning was always to be ignored at the OMB in favour of provincial policy as set out by provincial staff. Municipal official plans became relatively meaningless. We also felt that the actions of the government effectively shut down development in rural Ontario.

This government is to be congratulated for its efforts to streamline a planning system which has ground most planning approvals to a halt and added great expense to all involved in the process. Many of our previously expressed concerns have been dealt with. We appreciate the return to the "have regard to" framework of fitting provincial policy to local decision-making and the large number of changes which have been made to streamline the system.

We thank the government for agreeing to delegate subdivision approval powers to Lambton county. This had been offered to us by the Minister of Municipal Affairs in 1990 but was never delivered by provincial staff.

We are most pleased with the offer of the government to permit community-based approvals once a county has a new official plan. Then if a local official plan amendment does not receive an objection within a set time

frame, it will come into force. At present, simple amendments which are purely of a local nature must wait for months while the provincial bureaucracy places its stamp of approval, often after requiring meaningless changes.

Suggested improvements to Bill 20: Please recognize that county official plans, once they are approved under the system of "have regard to," should replace the more general provincial policy statement as the document guiding development in a municipality. Local plans should meet approved county official plan policies and not have to go back to provincial policy to be judged. If this change is not made, the value in doing upper-tier plans, which integrate regional needs with provincial policies, will be greatly reduced and an incentive for doing effective upper-tier planning will be lost. If all development proposals are judged against provincial policy and not local plans, then why have local—really, "upper-tier official plans" is what it should read.

We support the removal of most minor variances from the Ontario Municipal Board appeal, as the council which sets the zoning standards can surely be allowed to decide on a variance. However, the appeal process is important in planning. An appeal from a committee of adjustment to the council is appropriate. In Lambton, many committees of adjustment have councillors. We do not see why that arrangement should eliminate the possibility of a second hearing before council.

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Suggested improvements to the draft provincial policy statement: Let us designate enough land around our smaller communities so that there is a land market and competition for development. If we are allowed only to designate the exact amount of land estimated to be needed for a specific growth projection, that land could be owned by one person who would then have a monopoly, or by someone who is not interested in developing. Development then would only proceed by amendment of someone else's lands. That process makes development most difficult. Agricultural land designated for development around a small community surrounded by agricultural land does not all go out of production merely because it is designated for development, because most of the land surrounding small communities is not owned for development purposes. Please remove the maximum 20-year time frame for projecting land needs.

Section 1.1.2.h requires—by the way, I'm dealing with the provincial policy statement, because we understand that the statement and the legislation are going to the House at the same time. Section 1.1.2.h requires that significant and sensitive features and areas be protected "using ecosystem based information and studies." Even the Sewell commission did not make the use of watershed and subwatershed studies mandatory because of the huge cost. It is strange that in a period of huge restraint, especially for conservation authorities, the government is making the use of watershed studies mandatory. We fully intend on protecting significant and sensitive features and areas in Lambton, but watershed studies and information are not available and we cannot afford to do this kind of work. Please remove references telling us how we should protect our important natural resources. We will do it in the best manner we are able.

There are a number of references to "guidelines" in the provincial policy statement. The statement that "Implementation guidelines will provide information on the meaning of the policies" is exactly what went wrong with the last government's attempt at setting provincial policy. All guidelines add inevitably to policy, especially when they explain the meaning of the policies from the perspective of the provincial bureaucracy. We believe the new set of policies are very clear and we do not need any guidelines. Please remove all reference to guidelines in the policy statements. We have all seen where they lead. Any guideline will remove from the meaning of "have regard to."

The county of Lambton supports Bill 20 and the provincial policy statement because they restore substantial decision-making to communities and will result in a more streamlined planning approval process.

Lambton county also supports the detailed recommendations of the Association of Municipalities of Ontario on the bill and on the policy statement. AMO has consulted broadly with municipalities and with municipal staff who work in the field. We are very pleased that this government is listening to those most affected by changes to the planning system: duly elected local councils.

The Vice-Chair: Thank you very much. We have approximately five minutes per caucus, starting with the official opposition.

Mr Conway: Lambton county: wonderful place. I remember one of the great border clashes of all time between the county—it was the Clearwater business of six or seven years ago. How did that all work out from the point of view of the county of Lambton, that great annexation bite that was taken out of your county for the purposes of the city of Sarnia?

Mr Boyd: Fundamentally, it's worked very well. What happened was the separated city wanted to grab the township that was surrounding it. Had they taken it, it would have taken about 22% of the county assessment with it. There were a number of petrochemical plants in Clearwater. The annexation was allowed, but the amalgamated municipality came into the county.

It's interesting. In most counties, when you find there's a separated municipality sitting in the middle or at the edge or very powerful and it's not part of the county, it's hard to do proper county planning; it's hard to do proper county management. So having the city in the county has worked really quite well. There were some initial problems, but it's working out remarkably well. Right now there are two members of city council down at Good Roads with the county contingent, for example, and they're working together on common problems.

Mr Conway: You hinted at my interest when you said that the county council is up at the annual prayer meeting that we know as the Good Roads convention talking not so much about roads but about municipal restructuring. I think we all expect that sooner than later we are going to see counties like Lambton transformed.

Mr Boyd: I would suggest that we transformed in 1991. I think we did a really remarkable job at it. Our model is different from the Oxford model. Oxford pulled down a number of municipalities. We chose not to. We chose to bring the separated city in, which is a massive

city, more population than the rest of the county, and we expanded the boundaries of the urban areas with services; we doubled them all. We kept the small municipalities there, but we transferred a lot of the functions up to the upper tier. So their viability is assured because the upper tier is doing all of the high-risk stuff. So it's a different model from the Oxford county model, but Lambton's quite satisfied that we've done our job.

Mr Conway: I appreciate that, because that was really going to be my question. When you look at the additional planning responsibilities and functions that will devolve to the local regional government as a result of the passage of this bill, my question was going to be, how well suited do you think the municipal politicians and officials are in Lambton to meet those responsibilities?

Mr Boyd: Oh, it's all in place. We have 20 lower-tier comprehensive official plans approved at the present time. We have comprehensive bylaws. It's in place. What the problem has been is it's taken us two years to redo a local official plan, simple ones. So what we're looking for is clearly a streamlining so that we can get to doing other things than just documents. We want to get into community economic renewal and development. Our planners are now stuck with documents, and we're trying to release that. I think we're in place, but we want to get rid of the bother, of the time and all the documents that are required.

Mr Conway: Quickly, just two or three questions. I was struck by the fact that in your brief on page 2 you say you support the removal of minor variances from appeal to the OMB. We've heard a lot of testimony from people saying that at local levels, particularly where your appellate court is going to contain all or some of the people who made the original decision, it's not really natural justice. It really doesn't constitute a fair appeal to people who really want to get outside the neighbourhood and have somebody other than councillor X or reeve Y making the decision.

Mr Boyd: Lambton uses the council committee system, in which a committee of council will take a look at an issue, but when it goes to full county council, there's discussion of the issue and they will change their minds. In fact, on most county stuff there is that second hearing, and the hearing comes at county council, in which they have full discussion. If someone's unsatisfied, they can either flip it back to committee or they change it there. So I don't see that having the same people on a board twice is a problem. But that's from a county context, because we don't see it as a problem, especially for those of us who operate in a committee system.

It's interesting. I really fundamentally think the issue of appeals on variances is not our biggest concern in Ontario. I think they are minor variances and they are such, and I view it, and I think the county views it, as a way of streamlining to get away from board hearings.

Mr Christopherson: Thank you for your presentation. At the top of page 2 you state, "If all development proposals are judged against provincial policy and not local plans, then why have local official plans?" I guess the thought that popped into my mind when I read that was, to take your point of view, why bother having

provincial official plans? Why bother having provincial policies at all?

Mr Boyd: Well, I don't think we should have provincial official plans, and that's basically what we had with that policy statement and the guidelines. That's what that was. Sewell started off by saying: "Let's give a common set of rules so everyone understands what the rules of the game are. Then let's let the locals make the decisions." So I think what you finally got is that. In fact, I think the Sewell is likely being implemented by this government.

The policy statements are in the form of ensuring good planning, and they're hitting all of the issues that a local municipality will have to deal with. I think that's good. It will ensure you deal with those policy statements, and you will be ensured good planning of that local plan.

But let's take those policy statements and let's then go out to the public and talk to our councils and talk to farming groups and talk to all these other people. We ask them, what do you want? They tell us what they want, and we have to listen to that. We have to put that in our plan in the context, and it might be slightly different from some of the strict interpretations of the provincial policy. We're saying, for goodness sake, please let us put that local input into our plans, and then when the locals want to develop something, let them refer to those plans that they had a hand in developing, not have to go back to the policy statement the official plan was derived from.

Development proposals have to refer to, I think, a local plan that's had local council input, democratically elected council input, with citizen input. That, to me, makes planning alive at the local level, and I think that's what we should be—it's community values that are important in the context of the provincial policy framework. That's where we should be judging development proposals, not always going back to the mother document.

1520

Mr Christopherson: But is it not fair to say that your document still reflects, or your comments still reflect, the fact that there should be certain fundamental principles of planning that are the parameters for all local governments?

Mr Boyd: Yes. And I think that's what this attempts to do with the policy statements.

Mr Christopherson: This is my difficulty with your position: If that's the case that you believe that, wherever you might place those minimum standards, wherever you set the high bar, when you move to "have regard to," I think there's enough evidence to show that that's going to require little adherence on the part of municipalities to conform with, because all they have to do is "have regard," whereas currently it has to at least "be consistent with." Therefore, I find it somewhat contradictory to say, "Yes, there ought to be absolute, rock hard, bottom principles that exist," regardless of what they might be, and then on the other hand say, "However, municipalities should only have to have regard for them," which is very little consideration in reality, "when they make their local decisions." I have some difficulty understanding why that isn't somewhat contradictory.

Mr Boyd: Well, you see, it's not. I have 25 years in the field in which the "have regard to" is a very meaningful requirement. You go to the OMB, and if you say,

"Oh, I just had regard to; I read it," you're dead. If you go to a public and have that kind of disregard for it, you're dead. At a local government level, especially at an upper-tier level, there is integrity in the process to say "have regard to" means you take those policies and you make them mean something in the local context.

Sir, I just do not agree with that. I think there is a perception that that's the way some municipalities operate. I can just say in the southwest I don't see that. When there's an upper tier and a lower tier, I don't see that. The "have regard to" is a very real thing to us.

Mr Christopherson: Well, I served five years on city council before the five years I came into the provincial government, and I guess you and I, with great respect for each other, will just have to fundamentally disagree.

Mr Boyd: Fine.

Mr Christopherson: Gilles, do you have a question?

Mr Bisson: Very much along the same thing. You said they "have regard to" in regard to local context. I guess I just follow up on Mr Christopherson's comments and ask you this question: How can you ensure that municipalities throughout the province will have at least a bare minimum standard of rules they apply to planning if you don't have some kind of guidelines that people have to come to?

The problem with "have regard to"—and you're right to an extent. You can't just say, "I've looked at it" and forget it. "Now I'm moving on." But I think there are many cases in Ontario where we can see that planning happened where the planners did have regard to but didn't take them very seriously and we had some real problems. How do you get around that?

Mr Boyd: I don't view it that way. That's saying that we've got to regulate how people do things and they're only going to do it by regulation. I think one thing we have learned in the last 10 years is that we have to turn from regulation to stewardship. Instead of saying to someone, "You cut down that tree and we're going to fine you," you show that person how important that tree is and you give them a concept of being stewards on their land rather than users of their land.

It's really important in our community that we deal with the education, and that's why education is such an important part of any official plan review, to make sure that people understand and buy in. I would rather have them understand the valuable woodlot than say to them that they've got to protect the woodlot according to this.

Planning is only going to work in Ontario if the people care and if those are their standards they believe in, and I think we're coming a long way. To the credit of the last government and to the government before, we've come a long way in protection of wetlands and protection of green spaces. We've come a long way to public acceptance, and that's the bottom line.

You come to an official plan now. I couldn't imagine doing an official plan in Lambton if we didn't protect woodlots, probably even more greatly than you require here. The same thing with agricultural land. Probably the public in Lambton will demand greater protection than here.

Mr Christopherson: What if at the end of the day the woodlot is gone? What have you achieved?

Mr Boyd: Well, I don't think this is going to protect the woodlot.

Mr Smith: Thank you for your presentation and your words of support for Bill 20. I wanted to come back to page 1 of your presentation. In it, you refer to community-based approvals. I think this is important, because I want to frame this in the context of the presentations we've heard today. We've heard from the County Planning Directors of Ontario, Harwich and Raleigh townships, Blenheim, the county of Oxford.

I sense from the presentation that there's a sense of optimism here, of opportunity for you as county planners to act upon in terms of what's being provided to you through Bill 20. Would it be fair to say, given your comments about your planners being handcuffed in the documentation process, that the community-based planning process that we've heard about—and I have to say we heard about it the first week in Toronto from Bob Lehman, I believe it was, who was speaking on this issue. Is it fair to say that that process which you see evolving in Lambton inherently attracts public input and participation beyond the statutory requirements that we already see in the Planning Act?

Mr Boyd: Yes, sir, because it would give ultimate responsibility to that public response. Yes, I think it does.

Mr Smith: I think, Madam Chair, my colleague Dr Galt wanted to share the time with me as well.

Mr Galt: Thank you for the presentation. It was interesting, your comments about all the comments you made to Bill 163 and there was very little response, actually negligible, from what I could understand.

My question relates to a presentation we had in Toronto. They brought in 600-and-some-odd pages of guidelines, bound in plastic, never opened, and they laid it on top of the little ridge that went around in front of the table that they were presenting from. It was very obvious that they had never read them. I'm not just sure whether they made any reference to ever having read any others, but I'm wondering if you've read those 600 pages from cover to cover.

Mr Boyd: Oh, goodness, yes, sir. I was involved in the production of them. Some of the worst times of my professional life were in the production of those. I spent two years with that process and it was awful. Yes, I've read every page and it was awful. I have no good feelings about those at all. Every wish list that every provincial bureaucrat ever had got trotted out and the process lost control. I am not at all proud of my involvement in that process. I was, by the way, one of AMO's reps. I was one of five AMO reps on that process, and it was a tough run.

Mr Galt: Do you have any suggestion how many pages might be adequate to give some guidelines?

Mr Boyd: I think there's very unanimous thought now that the answer is zero. AMO's very strong on zero. We've had 20 years of this problem. It comes out as a guideline and then it jumps into policy, and you never know when it flips into policy and the board hits you with it. It used to be, in the old days, the minister's letters. Darcy would write a letter, and that would hit you at the board. I think we're away from ministers' letters now, but I think that you make the policy statements

clear and then walk, and let us deal with it. Let the board deal with it. There will be jurisprudence built up. There will be proper planning issues built up. AMO likely is going to have to have some help on helping other municipalities as to what are some of the ways to do things, but for goodness' sake, please, no guidelines.

Mr Galt: And how about the policy statements? Are we reasonably close? Is that okay?

Mr Boyd: You're very, very close.

The Vice-Chair: Thank you for coming this afternoon. Your input's been very, very constructive.

VAUGHAN MINOR

The Vice-Chair: I would ask that Vaughan Minor come forward, please. Good afternoon. Welcome to our hearings here in London. We have half an hour in which you can make presentation and perhaps leave some time for question and answer.

Mr Vaughan Minor: Well, I might have some good news for you. I might not take quite that long and you guys can have a chance for a coffee break.

First of all, Madam Chair, thank you for allowing me to speak here today. I apologize for the cold that I seem to have picked up on the weekend. My name is Vaughan Minor. I've been a member of the London city council for the last seven years and am currently on the city's planning committee.

I appear before you today as a citizen and as a businessperson. I've been a self-employed chartered accountant in London for the last 25 years, and today I'm here to compliment the committee on this new legislation, which I believe, as a businessperson, will help our province in stimulating economic growth.

In the past, federal and provincial governments have interfered in local planning under the guise, or disguise, of the provincial good. Local communities like London, Kitchener, Windsor and others had to grapple with a Toronto solution to a Toronto problem. There are lots of examples of that. A good example, perhaps the best example, is rent controls; however, that's another issue for another day.

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The previous government, for reasons it believed valid, imposed legislation on the province that the province just didn't need, nor did it want. As you know, London led the way in a legal challenge to Bill 120 because it just wasn't fair. Interestingly enough, the majority of the bill wasn't bad and London agreed with it, but the granny flat legislation was completely out of whack. Many communities in Ontario lent their support both morally and financially to challenge this law.

That's why I'm here today, to say thank you for giving the planning decisions back to the people who can best decide what is best for their community; that is, the local municipal council and the residents of their municipality.

As a member of the large urban section of AMO, I can tell you that we had some very lively discussion that took place at our last meeting on February 9. However, after a great deal of talk, the committee was generally in favour of the new legislation and wanted to compliment you for bringing it forward.

It provides some of the things AMO has been asking for, such as removing the right of appeal for minor variances decisions to the OMB. I can tell you that in London, for example, that has been a bit of a sore point because some of the frivolous items that come before the OMB are, quite frankly, just a waste of taxpayers' money. We have one case in particular in London where there was an appeal to the OMB, the city went to great expense to defend its decision and the appellant didn't even show. Not only did that cost the city of London money, it cost the province of Ontario money and the reason they didn't show was they had no valid reason to appeal the decision. Those types of things I think are very positive.

I took the time to discuss this matter with senior members of London's planning department and for the most part they're satisfied with the new act. They believe that it has some very good features to it and that they can work within it. However—that's the good news; here's the bad news—they do feel that the time limit for plans of subdivision, which I believe is 90 days, is a little tight. They feel that if there's any room for flexibility, they would prefer to see that a little longer, perhaps 120 or 150, just on the basis that plans of subdivision can be very complicated, and if there's one thing we want to do right, it's plans of subdivision, because the rest of it all just flows from that. If there's any flexibility on the committee's part in that area, our planning staff would like that.

Rather than taking a lot of the committee's valuable time repeating many of the things that I'm sure you've heard earlier today, that you'll hear later today and that you'll hear again at other hearings, I'd be pleased to try and answer any questions you may have.

In summary, thank you for allowing me the opportunity to speak to you. Congratulations on bringing in legislation that will be easier for all citizens to work with. Thank you for putting the decision-making back where it belongs, and please consider extending that time period for the plans of subdivision; it just is going to be a little too tight.

The Vice-Chair: We actually have about eight minutes per caucus here, if we all choose to use it. We'd like to start this afternoon with the third party.

Mr Bisson: Thank you very much. It's Mr Vaughan?

Mr Minor: Mr Minor.

Mr Bisson: Sorry, I don't have the presentation. I take it there was only—

Mr Minor: I just hand wrote some things. I didn't want to take a lot of the committee's time today. I've sat on your side of the fence too, so I know.

Mr Bisson: Not as a New Democrat, though.

Mr Minor: No, not in a provincial Legislature, just at city. It's bad enough there.

Mr Bisson: Let me get to the crux of it. You led off your presentation by saying that the Planning Act is good for business, and basically you're in line with what the government is trying to do, which is make planning easier for the development community to enhance economic activity and economic development.

On the one hand, we all agree that economic development is good, that it's what we need to do, that it's what

we need to strive for, because after all that's how your economy works. But I've got a bit of a problem, because if you take planning just from the perspective of what's good for economic development, that may not necessarily do very well for other considerations around the environment or around the aesthetics of our communities or how our communities are going to function.

It flows to the second point you made—before I get to the question—which is that you're also happy the government has gotten out of the business of planning and left it to the local municipality to do its job. How can the municipality do its job properly to deal with issues of planning that affect all of us in Ontario if there are not some sort of guidelines about how planning should happen at the local level?

Just as you understand, I don't disagree that the local municipality shouldn't play a greater role—I think it should. I think the argument has been made. But I have real difficulty in your presentation in trying to say that somehow economic activity should take precedence over environmental considerations, and the second part, that the province doesn't have something to contribute in the process. I think the province, by virtue of being with the OMB, sees what's happening all over the province, looks at what's worked well and what hasn't worked well, and from that and the work does, you're able to come up with, hopefully, provincial policies or guidelines, depending on what you want to call them, that would assist municipalities to do their jobs.

Mr Minor: There's something to be said for some provincial guidelines, but I think we've got all kinds of examples, and rent control maybe is a good example of a Toronto solution being imposed on other areas. I'll tell you, I was very involved in 1975 when that came in because of the way it was working in London. At the time, rents were going up 3% at that point.

Mr Bisson: But—

Mr Minor: Let me just say why I think we've got some challenges with the provincial stuff. After rent controls, they were going up 20%. I'm not sure that served the residents of London. There's no question it was needed in Toronto.

I believe there should be some provincial guidelines, but as an example of where I have some difficulty with the province jumping in on occasion, we had a particular situation here where we were doing a road-widening. There was a 30-day appeal period. The province came in after 90 days and said, "We don't like what you're doing," and booted it. Quite frankly, what's good for the goose is good for the gander.

To be honest with you, I don't have a problem with having some provincial guidelines, I think that's not bad, but my point was that if we can have the local municipalities making the decisions that are best for their particular communities, with some regard for provincial good—I don't think we'd want to pave over all the wetlands or anything like that, but I think once the provincial policies are established, let us deal with them. If we get out of line, you guys are going to let us know in a pretty quick hurry anyway.

Mr Bisson: Then you're maybe agreeing in another way. What I'm trying to say here is that we as a lower

level of government from the federal government manage many of our programs and do much of our work as a province based on federal guidelines. Sometimes funding is tied to those guidelines, other times it's just the way the federal laws are written in regard to what we can and can't do. As a provincial government, I don't see that as being bad. Quite frankly, you need to have some standards across this country that people can identify themselves.

Mr Minor: Could be.

Mr Bisson: I would make the same argument for planning. Just so you know, I don't disagree that we need to figure out how to make planning more efficient. There are examples we all could bring around the table where things could have been done better and can be done better in the future, but I have a real problem if we're talking about planning from purely an economic perspective. Second of all, if we're saying that the province doesn't have the role to play, I think that as a senior level of government, it does see what's happening in other communities and we're able to learn by those experiences and make planning better, so just for the record.

The second thing is that you talked about minor variances, about how you're in agreement with the government moving away from having the ability to appeal minor variances. You're one of few councillors—I wouldn't say the only one, because there are others who have your point of view; but many people from municipal councils across the province have come to this committee and said minor variances—the title might say "minor," but many times, as you well know, on council it's not viewed as a minor issue; it's a lot more than just that.

I agree there are some cases, not only at the OMB but at other appeal tribunals, where people at times will go forward with what you call frivolous and vexatious applications, but by and large, that's the price we pay for a democracy, is it not? Don't we have to at least admit that there are a number of cases, and I would say the majority, where people actually do bring forward actual concerns that are valid to them—may not be valid to me and you, but are valid to them—and the people who are affected? How do we strike that balance? Again, I agree you don't want to tie up the time of the OMB, but you can't take away the democratic right of individuals to appeal a decision made at the local level on minor variances.

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Mr Minor: No, but I think that from my perspective they're not minor variances, and I come from a small community originally and I know that in a lot of smaller communities that's exactly the situation; they're very important to them. However, I think there are a number of situations that get appealed where there's no need for it at all and—

Mr Bisson: Would you say that's the majority of cases, in your experiences here in London, because it's not where I come from?

Mr Minor: I'd say a lot of the decisions that come from the committee of adjustment are not appealed in London simply because they seem to have made some decent decisions.

Mr Bisson: But of the ones—

Mr Minor: Maybe the bad ones—to be honest with you, I can't give you a percentage, but I know there have been a few where it's just absolutely ridiculous that they went that far. Maybe what we have to do is tighten down the definition of what's "frivolous." Maybe that's a better answer.

Mr Bisson: Just so that I understand, though—I agree with you that most of that stuff is dealt with at committee of adjustment, the vast majority of it. But of those that have gone off to the OMB that have been appealed, haven't been settled at the committee of adjustment, would you say it's the majority of them you see that have been frivolous or is it just—

Mr Minor: I'd say 30%.

Mr Bisson: Less than 50%.

Mr Minor: Yes, 30% or 35%, maybe.

Mr Bisson: So we still need to find some mechanism to—

Mr Minor: There might be some mechanism you could design that would allow them to have that ability, at the same time without costing the province and the municipalities a lot of money.

Mr Bob Wood: I'd like to ask you a couple of questions. One relates to the area of development charges, which is dealt with in a preliminary way in this bill, and it's going to be dealt with further by the government later. We seem to have a majority view that hard services should be charged to development charges and soft services should not be. We also know that some municipalities, in effect, have looked at development charges as a revenue stream and that has cost the purchaser of new homes a lot of money. We could go back to the relatively recent past, where we simply say, "You can charge hard services a development charge and you can't charge soft services," which seemed to work. Do you think this would restrain the appetite of certain municipalities to get money out of development charges?

Mr Minor: There's no question. Unfortunately, in London we just went through that, where we were talking about a lot of soft services. It was a very heated debate, and we came down with just the hard services on it mainly. The problem I see is that there's some misconception that by charging developers development charges, and the more the better, we're really going to get those guys, those awful developer guys. But the fact of the matter is, it always passes through to the consumer. I was more concerned from the consumers' point of view because I don't think the consumer should be paying for all those things that would normally come under the tax base.

My preference is the hard services. But I think there are a lot of municipal politicians—there might even be one two right here in London—who would love to have the opportunity to add to the development charges. In London, as you may or may not know, we just laid off 12 people in our planning department because they don't have enough work. That's where we stand development-wise. I know it's a little more hectic in Toronto.

Mr Bob Wood: The problem of course with the development charge is that it's in effect a hidden tax.

Mr Minor: No question.

Mr Bob Wood: People don't see it immediately, so it's very tempting for people on the municipal councils to

try and get some money without it appearing that they're raising taxes.

I guess what I'd like you to tell me: Do you think simply changing the definition is sufficient? Do you think there's got to be some further mechanism? The interim mechanism of course is that the minister has to approve any increase.

Mr Minor: I think that if you want to tighten it down, you have to change the definition. The minister has to approve all of the development charges; that's correct. I think they've approved ours. We did it last year. If you want to control it, you'll have to change it. We've been through two very lively discussions on development charges over the last few years, Mr Martin will attest to. At one point, we filled up Centennial Hall with people who were really upset about it. The development charges can have a very dampening effect on the economy and can have a very detrimental effect on the price of housing.

Mr Bob Wood: Do you think, in the final solution, there has to be anything more than a change of definition? Do you think there has to be a mechanism where the province would in effect stop municipalities from charging excessive development charges, or do you think the change in definition is sufficient?

Mr Minor: I think the change in definition would be sufficient at this stage, but you might want to keep an eye on it, because some municipalities will stretch the definition.

Mr Bob Wood: Let me go on to a second matter, if I might, the matter of performance criteria. You asked earlier that we ease the performance criteria on the municipalities from 90 days to 150 or whatever it was that you felt was appropriate. What about performance criteria for provincial agencies, boards and commissions that you have to deal with?

Mr Minor: I think they should be under the same constraints. What's good for the goose is good for the gander. We all have to deal with the same rules. Fanshawe Park Road was supposed to be widened; there was a 30-day appeal period and 90 days later the previous government came in and put a stop to the whole thing. If we have to conform with a 90-day time constraint, so should the provincial people.

Mr Bob Wood: You would have no problem with the OMB being given performance criteria, that they have to hold a hearing, for the sake of argument, within a year?

Mr Minor: Absolutely, yes. They go on way too long. What's the waiting list now? Is it 18 months or a couple of years or something like that? There has to be a little flexibility. If you put in a rule that says, "You have to have the hearing within a year, period, or provide valid reasons why it can't be," whether that's at the request of the municipality or somebody, maybe there's some type of flexible provision you could put in at that stage, but there's no question that they should be under the same constraints.

Mr Bob Wood: Are there other ministries the municipality has to deal with that you'd like to see performance criteria for?

Mr Minor: Probably the main one would be the Ministry of Environment. We had some interesting

challenges with them on Wonderland Road North. That was quite a disappointing situation. We finally have approval now, but we should have built that in 1991. There should be some sort of performance deadlines on those types of people.

Mr Hardeman: Good afternoon, Mr Minor. I just wanted to go back to the appeal on minor variances. On the surface, it would seem that something of a minor nature should not spend a lot of time and money at the OMB to make the final decision or find out whether the decision was appropriate. During these hearings, we've heard many presenters suggest that a lot of minor variances are a way of dealing with zoning in an expeditious manner as opposed to actually being minor variances. If that's the case, would you agree or disagree that this would require some form of appeal? One presenter told us that a minor variance process had just created the ability to build five houses. Would you not agree that that would cause a problem?

Mr Minor: Absolutely.

Mr Hardeman: So it's maybe fairer to say that the problem is not whether we do or do not have an appeal, but really what would be defined as a minor variance?

Mr Minor: That could very well be. That's a perfect example of where there should be an appeal allowed if a resident so desired. In London we watch that very closely, and there have been two or three situations where we've said the committee of adjustment couldn't hear something because it was a zoning change. There has to be some appeal mechanism in the event that it is a zoning change, but for a lot of the minor, insignificant variances, where it's a side yard by a garage that's already been built, for a neighbour to be able to appeal that is not appropriate. If the garage is already there, what are you going to do? Make them move it?

Mr Lalonde: How do you feel about the removal of public meetings for plan of subdivision?

Mr Minor: In some cases, there should be some sort of availability of the public to have some input. However, in a plan of subdivision, that's usually a fairly large tract of land that isn't surrounded by or doesn't have a lot of residential component to it yet because it's just a bare piece of land, so maybe there's not quite the need for a lot of public input from that point of view because it is just a piece of land.

We dealt with one last night at planning committee that's a very significant infilling situation, and through a lot of cooperation between the developer and the neighbourhood they were able to come to a very nice conclusion. But for a plan of subdivision, it depends on what happens. You get into the old NIMBY syndrome. I see this all the time. People have had their houses backing on to what they thought was a green space for years and years. There was out in the Highland Woods area where the developers had zoning for town houses for 15 years and these neighbours moved in there and then all of a sudden, they just went crazy when he was going to try and plan it. That's a situation that never should have arisen, because their lawyers and real estate agents should have told them what that was. It wasn't green space that was publicly owned.

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Mr Lalonde: I agree with you. At times the buyer or the real estate people don't inform the people properly, and it could become a costly procedure for the municipality and also the subdivider.

On the removal of the right to appeal on minor variances, are you not afraid that at times, when they see they don't have the right to appeal to the OMB, they would proceed instead with a zoning amendment?

Mr Minor: I guess it would depend which side of the fence you're on. If it's a minor variance, the developer probably would prefer to go to the committee of adjustment if there's no appeal. The public would probably prefer to go to the planning committee or whatever committee of council was dealing with that, on the basis that they could then appeal it to the OMB.

I'd remind you that I'm trying to be here as a business person today because I think this province has a lot to offer and a lot of opportunity, but from a political point of view, I can tell you that people in London, if they think something's going to the wrong committee, if they think it's going to the committee of adjustment and it should be planning, they let us know loud, clear and often. Perhaps we don't have as much concern about that as some of the smaller communities may, where people don't read the information sometimes or don't get it circulated properly. Sometimes small-town politics is a little different than some of the bigger cities, not that either one's right.

Mr Lalonde: At present, Bill 20 really specifies that the right of appeal is left only to the municipalities and the municipalities are stuck with the cost. I would say that within Bill 20 it should be specified that they have the right to appeal to the OMB but the loser will pay the cost.

Mr Minor: That would probably be fair. That would prevent people from appealing things frivolously.

Mr Lalonde: I was very surprised to hear that the 90-day limit for a plan of subdivision is tight.

Mr Minor: It is for our planning staff. I've talked to our director of planning, Vic Coté, who is one of the best in the province. He's a great guy and does an awful lot of good things and gets an awful lot of good plans through and gets the compromise and deals with the residents and is quite an excellent employee. He felt that 90 days was a little tight. He said the rest of them they can deal with. If he had an extra 30 days, they might be able to do that much better of a job.

From my perspective, when you're looking at a plan of subdivision, that's a fairly big plan and that's a situation where you'd want to make sure you set the subdivision up right in the first place. An extra 30 days might not hurt.

Mr Lalonde: This has been my worry all along, because you're talking about the city of London, which is well organized, and you're laying off 12 people—

Mr Minor: Yesterday, yes.

Mr Lalonde: —and you say it's a little tight. When you get down to a small municipality or a small county, when you say the city of London is finding it tight, it must be tight for the smaller municipalities.

Mr Minor: Yes. I've dealt with a planner up in Grand Bend who deals for Lambton and is out of Wyoming, so if two or three of the municipalities for which she does the planning were all doing subdivisions at the same time, it would be very tight.

The Vice-Chair: Thank you very much. We've appreciated your attendance here today.

Mr Minor: Thank you. Welcome to London. Come on back again and bring more people, so you can stay longer and spend money here.

KEITH OLIVER

The Vice-Chair: As it stands right now, our 4 o'clock presenter has not yet shown. Oh, this might be the person. Here we are. Good afternoon.

Mr Keith Oliver: I'm not late.

The Vice-Chair: No, you're just on time.

Mr Bisson: That's what I like: somebody who comes with a one-page brief.

Mr Oliver: Well, let's see.

The Vice-Chair: Good afternoon and welcome to our hearing process. We have a half-hour to hear your presentation and then invite questions and answers as well.

Mr Oliver: In terms of submission, it's the sheet you have in front of you. I've made every effort I can to try to understand Bill 20. I thought I did, and then I had a conversation this morning with Philip McKinstry at the ministry about some questions I had and I began to realize—I'm not sure I misunderstood anything, but there's more to it and it's not an easy matter.

What I've done, essentially, is offer you a set of principles to guide your debate on the amendments that will take place in the next couple of days. What I want to do is just offer you some remarks. These remarks are offered in the truest sense of the word. I intend to be a constructive force in everything I do. I've met with Mr Wood and Mrs Cunningham, Mr Smith and Marion Boyd here about Bill 20; in fact, this was done before Christmas. In every effort I've made and in every effort I've been involved in, as I've said, I've really tried to be constructive about everything.

Some of you may take exception to some of the remarks I'm going to make, but I would just ask you to reflect on them because I think there's a lot more going on in this province and in this country than meets the eye. If we truly love our country and love our province and are part of this whole unique experiment which is called Canada, I think my remarks are to the point.

I'm appearing before you this afternoon as an individual, and what I will say are my words and thoughts, and my words and thoughts only. Let me take a moment or two to give you some background and some context so that essentially you'll know where I'm coming from and what my experience is. I'm 58 years old and I've worked as an architect and a general contractor all my life. I epitomize, I think, the small businessman, the entrepreneur. I have a bachelor's degree in science, with a major in psychology and zoology, as well as a degree in architecture, both from McGill University.

I was born and raised in Montreal. I worked as an architect for four years in the office of Moshe Safdie on

Expo '67; I was a design and construction supervision architect on that project. In that office I also worked on projects for San Francisco State University, for Haifa, Israel, for the US Navy in designing and providing housing for its personnel in Puerto Rico. I've worked as an architectural adviser on city planning projects in the office of Candub Fleisig in Newark, New Jersey. I've been employed as a construction manager with Mondev Development Corp of Montreal and Finard and Sons of Boston, Massachusetts. I've owned and operated a successful construction company based in Vermont and engaged in commercial construction with operations in 13 states.

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At present, and for the purpose of affiliation only—and I want to stress that—I can tell you that I am the co-chair of the land use caucus of the Ontario Environment Network and I've recently been appointed by the city council to the advisory committee on the environment here in London. Again, that's for affiliation only. I'm speaking strictly for myself.

The remarks I want to make this afternoon are inspired by some experience I've had as a citizen-participant in the Vision '96 process here in London. We're on the way, as you must know, to developing our official plan in response to the expansion of London into Middlesex county. Out of that experience and my growing concern with the general direction of the government of Mike Harris, and out of some of the contradictions I see in Bill 20, I want to make these remarks.

I want it known that I don't have any real solutions to any of the questions raised in the bill or that the bill addresses. I do not pretend to be that arrogant. I am, however, a firm and unapologetic believer in the democratic process, that equal respect be given to all interests and that government make every effort to consult them and consider their views. My comments will be of a general nature and will refer to the principles that must be preserved under the amendment to the Planning Act of March 1995.

Within the last year I have returned from living and working in the United States. The last 10 years of that were in Washington, DC. While in the States I witnessed the civil rights movement, the Vietnam War and the decline of America as a great nation. I've witnessed the moral decline of America and its loss of its beliefs in its ideals.

I consider myself an independent in my political views. My American heroes are Robert Kennedy, Barry Goldwater, Martin Luther King, Richard Nixon and Jimmy Carter.

Mr Bisson: What a mix.

Mr Oliver: No, they're not. I admire them for the greatness of their thought and vision, for their beliefs in the ideals of the American experiment and in democracy, and I have come to understand and overlook their weaknesses.

While I consider myself an independent, I also consider myself a small-c conservative, "conservative" in the historical and best sense of that word. I believe in the importance of our institutions and their measured evolution. I believe in science to the best of our ability, in

experience, in debate, in pragmatism and in a future that will be as good as or better for our children than it has been for us.

What I've witnessed in my expatriate years is the rise of Thatcherism in England, the rise of Reaganism in the United States and the travesty engineered by Sir Roger Douglas that is now referred to euphemistically as the restructuring of New Zealand. The common denominator in all three experiences is a completely new political phenomenon that defies the concerns of the traditional conservative movement. The best name for this movement is not neo-conservative. We true conservatives can do a lot better than that. The best name at this time and the only name I can think of is radical right, for radical it is in every sense of the word. This movement, this radical right, is not grounded in any of our institutions, pays cursory respect to societal values and is little more than an oversimplification of economic ideology without a soul.

For whatever reasons, be it the perceived threat to the democracies by totalitarian Communism or the increasingly pervasive and compelling forces of change that now affect all our lives, many have come to believe in our economic system as a self-fulfilling, self-motivated entity that will somehow lead us to salvation. This in my view is a complete distortion of the nature, the origin and the function of an economy, and nothing in my mind could be further from the truth.

Along with the rise of this belief in the economy as the source of our salvation came the momentary success of America and the rise of an ideal form of materialism, whose temptations even I, as conscious as I am of its negative influence, struggle with daily.

An economy, in my view, is an expression of the social ethic and individual values of a society or a culture. An economy is nothing more than a tool for the fulfilment of the unwritten aspirations of such groups.

In my experience, America has surrendered its democratic ideals to the pursuit of its economy. For those outside the economic system, they have experienced what Jefferson always feared: the tyranny of the majority. In America, everything is measured in the units of their economy. Individual worth is measured by such monetary units. The success of the economy itself is quantified with economic indicators that have nothing to do—nothing to do—with human values.

"The recession is over," the economists declare, "America is doing well." Indeed, the Dow Jones averages are doing well, but where are the jobs that allow hard-working men and women to be independent and provide for their families? "Why cannot Americans control their economy better?" the noted Canadian economist John Kenneth Galbraith repeatedly asks. "Why," asks the conservative Republican analyst Kevin Phillips, in his examination of the conservative anti-government periods of capitalist expansion, "do we continue to allow the growing disparity of income and wealth between rich and poor?"

Must we make the same mistakes here in Ontario, in Canada? Do we not have something very special that defines us as a diverse yet compassionate, inclusive and just people, and can we not preserve that special quality?

One of the compounding tenets of the radical right, and a temptation, I must say, to all of us, is to oversimplify the problem at hand, define it in monetary units and portray government as the devil and those who elect it and have the power to change it as its victims. On a number of occasions I have heard ministers of the Harris government use the words so commonly found in the impotent political speech of America, to the effect that we must "get government off the backs of the people." In the media kit that accompanied the announcement of Bill 20 on November 16, it was stated, "This government must...get rid of obstacles to growth." How, I ask you, can a duly constituted set of planning legislation and principles developed over a substantial period of public consultation be an obstacle to growth, especially since they have never been tried?

If I make any point in this tirade, this is the one thing that I think is desperately important: We must be aware of the destructiveness of political speech that is devoid of meaning and discourage it at every occasion. In the passion of political debate it is tempting, but we must become aware of it and avoid it. If not, we could become enslaved by it, as are our good neighbours to the south.

The other argument I have is with the notion that we either cut services or increase taxes, again a gross oversimplification and one which, when spoken with authority, discourages creative thinking and masks the real solutions, which will only be found when we come to understand the true forces that are causing us to change and when we as a society develop a consensus as to how the new role of government, the new disposition of power and decision-making authority and the new role of the individual will be.

I believe the Harris government is a new political phenomenon, that it misunderstands the nature and capacity of an economy to address social and economic problems and exhibits all the trademarks of a non-conservative radical right form of behaviour. Typical is a recent statement by Finance minister Eves that, despite other counsel, tax cuts will go ahead and "let the chips fall where they may." This belief in the ability of the invisible hand of the marketplace to cure all ills is a tenet that was expounded over 250 years ago by a respected economic philosopher, Adam Smith. It was adequate and useful in its time and for the simple economy in the context of which it was espoused. So was the science of Sir Isaac Newton, but societies are now much more complicated, and believing that the simple principles revealed in *The Wealth of Nations* can successfully address our present social and economic problems is like expecting the good Sir Isaac to design and engineer the space shuttle, a mismatch if ever there was one and one for which we would all pay dearly.

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The role of government in the late-modern, 20th-century, highly technological society is to keep the playing field of opportunity level for all and to address inequities.

One fact that I believe to be true is that there is a basic conflict between a true democracy where the goal is to distribute power evenly, a capitalist, free market economy which tends to concentrate economic power, and Chris-

tian and other forms of religion which are concerned with individual behaviour and belief. Since we have all three and their conflicts must be tempered, we need wise and judicious government that concerns itself with more than the administration of justice, the defence of the realm and, in our present case, the promotion of a healthy economy at all costs.

That's basically what I have to say. Does anyone have any response at all?

The Chair: Thank you. We appreciate your comments. You've left us six minutes for questioning by each caucus. We'll start this round with the government.

Mr Oliver: Have you had a chance to read over—okay, good.

Mr Baird: Thank you very much for your presentation. We appreciate you coming today. I just have one quick question before some comments. You mentioned that many ministers have said, "We've got to get government off the backs of people," and you found this disturbing. Which ministers and in which context did you find that disturbing?

Mr Oliver: I know one occasion—

Mr Baird: You mentioned many. Is there one that—

Mr Oliver: Mr Hardeman's not a minister, right?

Mr Baird: No. Mr Hardeman's a parliamentary assistant.

Mr Oliver: Excuse me, a parliamentary assistant. I'm sorry I can't put my finger on it, but I know I reacted to it right away when I heard it, because my reference point is still my experience in the States. In another maybe half a year or six months or so, life here will probably become normal and I will have forgotten my experience living in America. But I notice so many things, even to this day: the way fathers and children behave in public, the language used here in Ontario and in Canada, the concern for the poor, the quality of government services—just so many things.

I'm sorry that I can't really identify that and I wouldn't like to say unless I was sure.

Mr Baird: I was just curious because you had said that on many occasions many ministers had, and that would just concern me.

Mr Oliver: I really have noticed it, and I react very quickly to that because it's something that drove me crazy in the United States.

Mr Baird: But you don't remember which ministers?

Mr Oliver: I'm sorry, I can't answer that question.

Mr Baird: Number 2 on your sheet is, "Protect, without compromise, the environment." We're obviously wanting to seek an appropriate balance between development and the environment, between the economy and the environment. That's a challenge for governments at all levels, municipal, provincial and federal. What type of balance do you think is appropriate?

Mr Oliver: I am not very optimistic about the environment. I have done a lot of work in the States on environmental issues—in a volunteer capacity, but I tried to do a good job—and I have been involved in lobbying the state of Maryland and the federal government in Washington with volunteer citizen-based groups.

What I respect deeply and what I would recommend as reading for everyone is the sixth edition of the biennial

report of the International Joint Commission on Great Lakes Water Quality. The commissioners were appointees by Ronald Reagan and Bush, very conservative businessmen who had supported the campaigns rather generously, and three Canadian appointees by Mulroney. They were conservative gentlemen, and in a relatively short period of time they came to take very extreme positions on the environment. One of the recommendations in that 6th biennial report is to phase out chlorine as a feedstock in all manufacturing processes. This is something we don't talk about, that the most extreme environmentalist doesn't talk about in public. They became convinced by their scientists and numerous studies that we are engaged in a grand experiment.

In my view, we will never know, we will never understand the way nature works, the way the climate works. The quest for a unified theory to explain the behaviour of all matter most likely will end up as a mathematical formula. What I'm saying to you is that we don't know what we're doing and we have more chemicals now in our adipose body fat than we had 20 years ago, chemicals that never existed at that time.

Mr Baird: We can only do the best job, knowing the small amount we do know about nature.

Mr Oliver: Right. What I want to come in defence of, though, is true conservatism. We take far too many risks. We've gotten away with it so far. I don't believe that's going to continue, and I am not an alarmist, believe me. I am not a pessimist by any stretch of the imagination. I've had a good life, life is good for me, but I am very concerned. I think we should turn our scientists loose to determine that. Our political system gets in the way often.

Mr Bob Wood: I have a couple of fast questions, and I'd invite you to give fast answers if you can. What would your reaction be to performance criteria for the various entities involved in the planning process? To take one example, say the OMB, that they'd have to hold a hearing within a year?

Mr Oliver: Excellent idea. I'm a businessman, eh? Excellent idea.

Mr Bob Wood: You've offered some general philosophical comments. It's interesting the degree of consensus we have on principles. The devil is in the details, where we tend to get disagreement. Can I ask you to, with equal expedition, because unfortunately we are short on time, tell me the three things you like most about this bill and the three things you least like.

Mr Oliver: I like the devolution of powers to the municipalities, but if that's going to be done the principles have to be strong, because the municipalities need guidelines. They also need access to expertise, especially the smaller ones. This is not a uniform community of municipalities: Some have a lot of resources, some have none; some are sophisticated, some aren't. I cry when I drive through parts of Ontario and see what's happened to the small towns. It's a shame. We talk about heritage preservation. It doesn't exist, as far as I can see.

What else? A number of things. I like the idea of the single ministry, the single window, if you would. I think some of the performance standards in terms of the time frame for approvals are a little unrealistic. I think more work should go into determining what the standard

should be. Since subdivisions can vary so much in their complexity, I think there should be a negotiating period at the beginning of the application process between whoever represents the approval authorities and the applicant to determine what a reasonable time frame would be, paying respect to the guidelines. There are some very complicated subdivisions and some very simple ones, so I don't know why we should be rigid about this. I think there should be standards. The drive should be to reduce the time as much as possible; I don't see any point in wasting people's money. Money and wealth can be used for a lot of different things. I think the idea of standards is an excellent one, but there should be some flexibility there.

Mr Lalonde: I just heard the end of your comments, that you're in favour of dealing with just the one minister. Is that what you said?

Mr Oliver: From what I can understand, to have the single ministry, Municipal Affairs and Housing I believe is the proposal—

Mr Lalonde: But you are concerned about the environment and the heritage also. Don't you think that dealing with just the one minister will create some problems on heritage issues, conservation issues?

Mr Oliver: The standards outlined in the principles should be clearly defined and in fact should be strengthened if that's going to be the case. There's a great deal of inefficiency when you have to go to so many ministries for approvals and everything else, and the conflict between them in the standards—I mean, I've heard horror stories about that kind of thing. I think the one-window type of environment for approvals is a good idea. I don't think anything should be overlooked in that process, and I think the standards should be strong and the standards should be strengthened.

Mr Lalonde: If the standards are in place, the one-window approach is satisfactory to you.

Mr Oliver: I think so. I'm qualifying myself because, believe me, I said I wasn't an arrogant person. These are complicated issues, and I would love to see a full-fledged debate on these points by people of opposing views who have full knowledge about all of this. But it seems to me that's not an unreasonable idea.

Mr Lalonde: But when it comes to a conservation issue, for example, or an agriculture issue, without extending the time frame, they should have the right to comment whenever there's a conservation issue.

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Mr Oliver: My comeback then is that that, to me, would indicate a more complex subdivision or a project of a more complex nature and therefore more time could be negotiated at the beginning to set a reasonable standard for the time involved. There are ways of doing this. I'm in construction every day of my life. I solve thousands of problems, no problem, and we get on with the job and it's good. Some of my best friends are my clients, so I do something right somewhere. It's all possible.

Mr Bisson: I appreciate your presentation. As far as I know, you're the only presenter who's come here to speak from the heart in regard to how you feel about where public policy is going. I know that's always

uncomfortable for a government. I was on the receiving end of some of those discussions during our time in government as New Democrats, where some of the people in our party felt that the direction we were taking as a government wasn't true to what they believed the party should be doing. I have some sympathy for the government.

But I've got to agree with you to the extent that I come from a part of Ontario, up in Timmins, where we have traditionally elected only Conservatives or New Democrats to the House at the provincial level. The Conservatives who have been elected successfully have been those who ran and have worked as small-c conservatives, who believe that on the fiscal side you must be prudent, must be careful, must watch out for tomorrow and make sure you don't make things so onerous that it's impossible to create wealth, but who have always understood there's a balance to our society, in this experiment called Canada, as you said—I think you're 100% on. We decided in Canada back in 1867 that we wanted a different country from the United States and we set out a much different path for our country. Where we're going, I fear, drives us off that path quite a bit to where, quite frankly, we're going to become much more allied with the ideologies of the radical right. I'll be going back to your comments and re-reading them, because there's some language in there that I think hits the nail on the head.

Specific to Bill 20, a couple of things, first the one-window approach issue. I agree that government needs to find a way to make things easier for the developers and the people in the planning community to move projects through. I was part of the government that initiated the first one-window approach in the province when it came to permitting around mining issues. There used to be a time in the mining industry, if you were a prospector or a developer, when you had to go to the Ministry of Labour, the Ministry of Environment, the Ministry of Mines—you name it—to get your information. I think we learned something through that process, that however good it might be in terms of assisting the developer to do the job, sometimes in practice it's more difficult.

The Ministry of Municipal Affairs does not have biologists on staff who understand issues of the environment when it comes to wetlands policy. The Ministry of Municipal Affairs may not have on staff the expertise it needs to take a look at those provincial policies that we have decided are for the public good. I'm a little fearful that we may end up in a situation where, if you have a Ministry of Municipal Affairs led by a minister and a government that are pro-development—and if you read the title of the act, that's what this is all about—we may not take into consideration those other issues as strongly as they need to be to strike that balance. In light of that, should we not be making sure that MNR and MOE and others have some kind of role—a streamlined role, but some kind of role—when it comes to making sure that if there are concerns out there, the Ministry of Municipal Affairs has to take them seriously? As it is now, they won't have to.

Mr Oliver: In a development or a subdivision where environmental considerations are a real issue, the finest expertise should look at those. Listen, you're asking me

to design the system, and I can't do that. For me to come up with answers and ideas really would be presumptuous.

Mr Bisson: I don't think individually any of us on this committee can, quite frankly. It's a community process that we have to look at. What is that we want in the end? We want to create economic development, but we want to do it in a way that safeguards the environment and certain principles we set forward, and in my view we should be trying to elicit the views of those people who are expert in the field to make sure we don't do something disastrous for the future. I guess that's my fear around the one window, and I wonder if you share that to a certain extent, or do you still feel the same?

Mr Oliver: At this point, I would say I think it could be done, but it has to be done properly, no question about that, and everything should be considered.

Mr Bisson: I agree that you have to have strong policy to drive the local planning process. You're bang on. If we've heard anything through these committee hearings, it's that most people—not everybody, but most people—agree with the government's view that planning should be devolved more to the local level of government. We started that process as New Democrats through Bill 163; the government is carrying that further, and I think we can all agree. But I would echo what you're saying, that you have to have clear policy and guidelines, not only so the municipalities adhere to provincial policy but also so they are better able to do their jobs.

At the beginning of your presentation, you listed your many accomplishments, both professional and the community involvement you've had throughout your life. I would say your degree in zoology certainly makes you an expert to deal with this committee.

Mr Oliver: I guess this is conclusion time, eh? If I could say just one thing to the committee—and I'm not admonishing you. You are my peers; you are superior to me in many ways, so I'm not admonishing you in any sense. But I must say, when I saw the exchanges that went on over Bill 26—I was at the Radisson Hotel here for the first round of hearings on non-health issues—and then when I witnessed the debate over the amendments in the amendment committee on the Ontario channel, I was appalled. We can't solve problems like that. I know there's a lot of fire and passion. I find the Harris government very provocative, if I may say so, and I am deeply, deeply concerned about what's happening in Ontario. However, it's politics, and we have to find the best solutions, we have to make the compromises. If these solutions don't really pay respect to all the different interests, these solutions will not stick; they will come undone sometime in the future, and we can't afford that.

I would urge you, please, as I've suggested in one of the items on this sheet, that you engage the best advice you can and hold a constructive debate over the amendments. No one's going to be entirely happy, I know that, but the quality of debate has to improve. It just has to improve.

The Chair: Thank you very much, Mr Oliver. We appreciate your taking the time to make a presentation before us here today.

Mr Oliver: Thank you. I appreciate being here, I really do.

Mr Hardeman: Mr Chairman, if I could have just a moment of the committee's time, I think the committee was to meet tomorrow morning at 9 o'clock to start the clause-by-clause. I do believe we have unanimous consent of the three parties to delay that to 1 o'clock. We hope to have all the amendments that would be proposed at that time by all three parties to be exchanged, so we could all have an opportunity to review those amendments prior to starting the clause-by-clause at 1 o'clock.
1630

We also recognize that the subcommittee had discussions before we started the hearing, and we thought we could conclude the clause-by-clause in 15 hours. Recognizing that this would take three of those hours, if they're required, I'm sure we could get unanimous consent to continue the discussion on Thursday evening for those three hours to get the full three hours in.

Mr Bisson: Just on that point, I just want to be clear here. I haven't got a problem, from our party's perspective, giving you consent to start at 1, but if debate needs to go on a little bit further on clause-by-clause, Thursday night might be a problem for some of us because we live out of town and we have planes to catch. So I'm wondering maybe we can do that when the House comes back.

Mr Hardeman: I think we would all be prepared to look at it when we get the amendments. If we feel that these three hours would be required, we could do it Wednesday evening too.

Mr Bisson: Can I ask then that we split out of your unanimous consent motion that we just deal with starting at 1 o'clock, and then regarding the length of the hearing we can do that later? I wouldn't want to tie the two of them together because I may not be able to be there Thursday, and as my party's critic there might be issues that we haven't dealt with sufficiently.

Mr Hardeman: The only concern we have as a committee I believe is that we do propose to have the clause-by-clause completed by Thursday, there not being an opportunity, or not being time scheduled for further debate. I would not want to take the three hours and then find out that somewhere along the line we need to put it off for days and weeks to finish those last three hours. I would hope that we could complete the debate on clause-by-clause by the set time limit that the subcommittee had agreed on to the 15 hours of debate.

Mr Bisson: Well, it puts me in a bit of a position. I'm a little bit reluctant to give unanimous consent from this side, at least from our party's perspective, unless we split that at this point. I need to go talk to the rest of my caucus colleagues and we need to take a look at the rest of the amendments before we can agree on the other part. It's a little bit premature. I'm trying to be cooperative because I understand you do have a time line that you're trying to meet, but I would ask that we separate those two items at this point.

Mr Baird: The parliamentary assistant mentioned that we could perhaps look at Wednesday evening. Would that meet your concern? If we had to meet one of the two nights, I would suggest Wednesday night would probably be better. I know the members from the New Democratic Party, the member for Prescott-Russell and myself live outside of the greater Toronto area and we have to travel

back to our constituencies on Thursday, and it would be difficult. Your earlier statement that Wednesday night might be appropriate maybe could be the answer to Mr Bisson's concern.

Mr Bisson: I don't know what my schedule is on Thursday.

Mr Hardeman: I would just point out that the agreement to start at 1 as opposed to 9 is not to reduce the hours. We still hope to make 15 hours available for the clause-by-clause debate if it would suit the committee better to be on Wednesday instead of Thursday. That would be appropriate.

Mr Bisson: I'm trying to be supportive to your motion, but I just don't want to handcuff us on the time. I don't know where I am Wednesday night. I'm just checking it out here. Actually, I've got something at 7. Wednesday, I'm at a function at 7. I've got to be gone by about 6. Al Leach's riding; something to do with rent control.

The Chair: Is there any further discussion on the matter?

Mr Baird: That goes some way to try to meet your concern, which I think is valid.

Mr Bisson: We might be able to deal with it in the time from 1 o'clock on Wednesday to Thursday. It might turn out that your amendment and our amendment—because I think we have some agreement on some issues—we might be able to get through it. But if not I just don't want to handcuff us so that we end up losing those three hours. But I recognize the need to push it up to 1 o'clock.

Mr Hardeman: Again, we'd be amenable to looking at alternatives to the three hours that if required would not be lost, but we do not want to go on into the following week, to try and set up a totally new day for further debate. We hope to be able to complete it at the end of those 15 hours that were agreed upon at the start of the process.

Mr Bisson: I don't know. The Liberal caucus—any comments?

Mr Lalonde: I agree. If we could have it Wednesday night instead of Thursday night, I would support that.

Mr Baird: Perhaps there could be discussion on the sections we debate on the Wednesday evening, if you couldn't be there, but if there were particular sections that you as critic could work out with one of your colleagues, I think that would be appropriate.

Mr Bisson: I'm trying not to be obstructive here. Can we just deal with the one issue, to start tomorrow at 1?

Interjection: No.

Mr Bisson: I don't want to make you go past Thursday, but I just have to check out my colleagues.

Mr Hardeman: I guess my only concern, Mr Bisson—

Mr Bisson: Negotiation in the committee here.

Mr Hardeman: —is the same as your concern. I have concern that by going to 1 and then not dealing with the 15 hours and being done by Thursday, we would inadvertently then end up not knowing when we would complete the debate, where we would put those other three hours. I think there's a need to deal with them together for that reason.

Mr Bisson: We can deal with the three-hour issue tomorrow is all I'm suggesting. We can do it within that day and half, but I can't say Wednesday, Thursday night; it depends on the availability of my colleagues who would take my place.

Mr Hardeman: Again, not to be insistent, but if we deal with the three hours, we start tomorrow at 1 o'clock, then there's no way of dealing with those three hours, putting them back into the beginning.

Mr Galt: I think what I'm hearing, Mr Chair, is that they're quite willing to go along with starting at 1 o'clock provided the 15 hours are wound up by Thursday night and we'd work within it someplace.

Mr Bisson: Yes, and I'm not sure where the extra three hours will be put. That's all I'm telling you. So I don't want to be committed to where those three hours will be.

Mr Hardeman: As long as we're all committed that they would be put in before the end of Thursday night, I have no problem. Yes.

Mr Galt: I'm hearing that that's part of the motion.

Mr Hardeman: If everyone is agreed that we will be concluded by Thursday night—

Mr Bisson: I'll give you this one, Ernie, but you owe me one.

Mr Hardeman: Thank you.

Mr Bisson: You're welcome.

The Chair: So we have unanimous consent?

Mr Bisson: Yeah.

The Chair: Thank you all.

Mr Bisson: I need your support on rent control, though.

LONDON AREA PLANNING CONSULTANTS

The Chair: Thank you for the forbearance of the London Area Planning Consultants, who are our next presenters. Good afternoon. Welcome to the committee. We have 30 minutes for you to divide as you see fit between presentation and question-and-answer period.

Mr Laverne Kirkness: Thank you very much. My name is Laverne Kirkness. We have a one-page brief, which we hope you take time to read, and I'm going to go through it with you.

I want to make it clear that I am Laverne Kirkness and I am on the sheet. The other two people are on the sheet but they're not here. This gentleman is Ron Burnett, and he's another vice-president of the London Area Planning Consultants. If you have done any consulting in your lives, you probably know that you get sort of tossed around from day to day, and Jean Monteith and John Henricks—John Henricks is here, but he already has been speaking through the chamber. That's at the bottom of this sheet, and Jean Monteith is not here as of yet. So Ron Burnett and myself, Laverne Kirkness, will carry this.

I just had one question: When I looked at my fax sheet here, there's quite a few different people here, I presume, Mr Chairman, than what's on this list. Is that the case?

The Chair: I can't see it from here, but it's quite possible there have been members substituted on, yes.

Mr Kirkness: I see. Okay. That sort of happens all the time, right? I just wanted to make sure I was in front of the right committee.

Mr Bisson: You are.

Mr Kirkness: Our organization is 20 members strong. We basically have 20 small planning consulting firms that practise largely in the Middlesex-London region. Some of us have maybe up to 12 employees, but most of us are operating with one to three or five employees. I did give you a list of planning consultants who are members. There are 20 companies under this organization called the London Area Planning Consultants, and our purpose basically is to balance the public side of planning, in a way.

Most planners, I think, in the public side are seen to work for government—municipal, federal or provincial, or a crown corporation, I suppose—but there is probably a third of the planners in this province working in the private sector. We're representing only, of course, the London-Middlesex region planning consultants, and we're here basically to offer advice to people who want to do something with their land in the name of good planning. We come together with our brothers and sisters of public planning, of course, in professional organizations. Most of us are members of the Canadian Institute of Planners as well as the Ontario Professional Planners Institute. We feel, though, that most of the submissions that are often made to you come from a dominance of public planning and we want to make it clear that there is at least a strong minority of private planners who think we might have some things to add to that, and may not be exactly coincident with the public planning perspective, in fact likely not.

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We want to indicate to you, and that starts really with the second paragraph, that we're in general support, and I would say enthusiastic support, of Bill 20. We feel that it better balances the perspectives of economic, social, environmental, and perhaps agriculture should also be given room there. It does more to give municipalities the power that has been talked about but somehow they haven't received, at least we felt as a group, through Bill 163. We feel that this does more to give them the power and the responsibility.

As we discussed this bill among our meetings, we all seemed to come to the conclusion that municipalities—they range in size greatly and in number, and of course, there's upper tier, lower tier, and it's quite complex in this province, which I probably don't need to tell you. We have found, and our experience is, that generally the decisions municipalities make are good. They're good decisions and we're in support of them being able to make more decisions, largely because of their track record.

We also think, as a fundamental philosophy of our organization, or the culture of our London area planning consultants group, that land ownership is important and having rights with that ownership is important. Now, that's not to jeopardize the public interest, it's to fully recognize that there's a balance here with the regulation against those rights. But we feel that Bill 20 goes a long way to recognize and put confidence in land owners'

views and what they want to do with their land and the kind of advice that they buy to help them make those decisions. We feel Bill 20 provides a better forum for that and doesn't sort of pull the rug out from under them like, perhaps, some would perceive Bill 163 did, or does. Therefore, I think that maybe the most important sentence in that second paragraph is that it has a better balance of economic, social and environmental perspectives. We leave that there.

Some of the specific highlights: We're certainly endorsing the reduced approval time frames. We certainly endorse the "have regard for" as opposed to the "be consistent with." I think we're still learning, perhaps, about some of the implications of "be consistent with" in terms of what it means but it seems to get us into a lot of unknown territory which provides a basis for a lot of debate that maybe isn't all that productive and "have regard for" is, some would say, a looser but perhaps more flexible kind of approach to making sure we recognize and respect provincial policy.

The prematurity argument before the OMB: Prematurity is a very complex issue with respect to land development and it's forums like the Ontario Municipal Board where those kinds of issues can be properly delivered and decided upon so an appeal on that basis is supported.

The one-window approach: Well, I can't tell you that we were as enthusiastic about that as the others above it but we think it should be given a chance and then if the Ministry of Municipal Affairs—and we understand that, really, for a long time the Ministry of Municipal Affairs is supposed to have been sort of the window, the one-window approach, but haven't performed that way. Hopefully, Bill 20 will refresh their memories, I suppose, and develop regulations and powers that they will, in fact, be the one window that they were intended to be in the past.

Putting more approvals to counties and regions is a point that we are making, really, as part of the municipal empowerment and, as I understand it, the province is intending to get out of the approval business and we think that is largely the right direction to take.

There are some things that we would suggest and that gets to the fourth title. Some of us are having difficulty with municipalities in determining what a complete application is and, therefore, when does the clock start, even under the existing legislation. We have had a case where we have had to do circulation of a subdivision informally to all of the various ministries and agencies. In fact, we were supplied with a list before—and to document that informal input as part of the application, and we have to question whether or not that's really what the province means in terms of a complete application, whether we actually do a dry run on a proposal in a fairly comprehensive way before we actually make the application and the time can start.

We're hoping that you'll be clear, probably in the regulations, around the implementation guidelines and what constitutes a complete application. Therefore, there won't be any question by a municipality in saying, or to a proponent of development, "This is when we can receive." We're not suggesting that only a name and a hand-drawn map are all that is required. We would really

appreciate it if the province would be clear somewhere so that we don't have to arbitrate this with municipalities every time we make an application for a land development proponent.

That gets us to minor variances, another subject. It's basically thinking that maybe we should just leave it in the council's hands as to who should decide on minor variances. Again, among our group I can convey to you that in our discussions the kind of minor variance appeals we tend to get in front of the Ontario Municipal Board invariably have the members shaking their heads saying, "You know, you guys are making a big deal out of this; it's really not something the province should be deciding at all, and wouldn't it be better if we just leave it in the hands of local government?" Let them try. As I say, and it goes back to my previous statement, municipalities tend to make pretty fair, positive decisions even though they don't always agree with the planning consultant position.

We're suggesting perhaps to simplify the minor variance thing. That is, regardless of the composition of the committee of adjustment, whether it's all council members, one council member or no council members, just leave it up to council and don't allow for the OMB appeal. In talking to consultants in other parts of the province, such as in Toronto, we understand that a lot of major development occurs in such places as the city of Toronto on the basis of a minor variance approval, and all kinds of conditions can be attached and so on, therefore you need an appeal mechanism. We find it hard to believe that we would let—albeit a large municipality. But perhaps it's not the proper use of the planning instruments to allow large development under minor variance, that they should get their planning instruments in control and updated and not be using minor variance as a way of leveraging large development.

We can't come to you and say, "This is the answer"; we're coming to you saying, "Let's try it." If there seems to be some problem with not having the right to appeal, we're all in favour of democracy and fairness and justice, and if we need a level of appeal, okay; we just think that maybe from the committee to council is fine and dandy for the significance of the minor variance kind of application.

We have learned also that the plan of subdivision as a planning instrument is going to have the pre-1983 rule of lapsing. That seems to us to be a backward step, particularly a three-year lapsing, because three years go by so quickly, and with growth sort of in spurts and starts and fits and right now hardly at all, three years is just too short a time frame. So if lapsing has to be, we're suggesting five years as a minimum. I think others are suggesting 10 and so on. We're not against 10 years. We're certainly not against not lapsing at all; in other words, we're in favour of no lapsing but we felt that perhaps it's going too far to ask that of you.

The retroactivity question or, when will this Bill 20 be proclaimed and when will it be in effect: We're thinking that it would make it a lot more simple if you were to go back to March 1995 and say, "That's when it's in effect." When there's probably only a one-year window, we don't know that that's going to harm anybody. We think that Bill 20 probably will require less on applications than

more, and consequently, applications that are already in the mill will probably be quite okay. We're not sure we understand why it can't go back or that there is any planning reason why we can't go back to March. So, we're suggesting to you retroactivity.

1650

Of course, in combination with that, we're suggesting that you expedite the proclamation and the delivery of the implementation guidelines maybe quicker than July if you can muster the strength and get whatever done to be able to do that.

That basically concludes the of presentation we wanted to make to you and we'd be open, certainly, to any questions.

The Chair: Thank you very much, gentlemen. We have four minutes for each caucus for questioning. This round will commence with the official opposition, but before they do, I notice we're joined by the former member for Middlesex, Irene Mathysen. Good afternoon. Thank you for joining us.

Mr Lalonde: I see that you represent 20 different firms from your association. I thought at the beginning it was going to be a sales pitch, the way you proceeded. But anyway, I do take into consideration that you're looking at a time frame which at times really will benefit the municipality and also the developer. I do foresee that you people are going to be playing a very important role in meeting the time frame that has been indicated in this Bill 20. One question that I have is, how do you see the fact that there will be no public meeting requirements for a plan of subdivision?

Mr Kirkness: Mr Lalonde, I think that in most cases a rezoning application usually accompanies the plan of subdivision where a public meeting then is required, so that probably answers at least two thirds of the plans of subdivision because of the accompanying zoning application. The other third is probably taken care of because perhaps the plan of subdivision isn't sufficiently significant to warrant a public meeting or, as I understand it, Bill 20 does not prevent a council from having a public meeting; they just won't require it. So there still may be the same amount of public meetings going on with that planning tool. You're just leaving it up to the municipalities.

Mr Lalonde: Good. My next question would be concerning development charges. Do you feel that the software part should be included in the development charges?

Mr Burnett: That's not been a part of our concern.

Mr Lalonde: Soft services, sorry.

Mr Kirkness: We have not got through the debate on development charges. I'm sorry to come here looking like we're not prepared in that sense, but we just have not got at that, so I can't offer you an organizational position on whether soft services should be included.

Mr Lalonde: My last one would be minor variance appeal. There's a lot of interpretation in this minor variance appeal because at times we feel it would be better if the third party has the right to appeal to the OMB and at other times it doesn't. It depends on the interpretation of the committee of adjustment. I've seen in the past that a minor variance is just a few inches or

a few feet, really, that have to be dealt with. But at other times I've seen in the past that you would create five lots within an infilling piece of land that would permit only three residential lots. In this case, I don't call that minor variance, but the interpretation of different minor variance adjustment committees would consider this as a minor variance. At that point, do you feel they should have the right to appeal to the OMB if it isn't accepted by the municipal council, for instance?

Mr Kirkness: No, we're offering the position to you that there shouldn't be an appeal. The reason is that we feel that the history of minor variances in this province has evolved to rest on four tests, which basically means conformity with the official plan, compliance with the zoning bylaw, is it appropriate and is it minor?

Those are very broad headings, but a very comprehensive way of approaching a minor variance, and if the committee of adjustment is responsible, they'll look at those four tests, which are well established in planning practice and law, to come up with the proper decision.

In some cases the example you're quoting may be minor; in other cases it may not. It depends on those four tests, and that is what we would rely on.

Mr Ron Burnett: As a continuation of that, Mr Lalonde, what happens is that if it goes to council and if the recommendation is again that it is not minor in nature and therefore would not conform to the minor variance application, it is completed and finished. The applicant can then go and apply for a rezoning application, which will bring it back into the public forum. Therefore, what has been done is that you've completed the circuit on a minor variance. You're not waiting for a year and a half to go to the board and having the discussions there, which may end up being the same thing. Just take it back and make an application for a rezoning.

Mr Bisson: I just want to pick up again on the minor variance thing. First of all, you would recognize that the vast majority—well, let me ask you the question. Would you say it's a majority or a minority of minor variances that are dealt with at the committee of adjustment level, by councils?

Mr Burnett: Are you asking as to whether the variances are minor that are dealt with?

Mr Bisson: No. What I'm asking is, of minor variances that are dealt with at the committee of adjustment, would you say a majority of those end up going to the OMB, or a minority of those?

Mr Kirkness: A minority.

Mr Burnett: A minority, yes. In some cases in some jurisdictions, a minor variance can be dealt with by staff members of the council.

Mr Bisson: We understand that. But the point I'm trying to make here is that the majority of cases are dealt with at committee of adjustment, because I agree with you: Most councils, on most cases, get them right. But there are times where there is a difference of opinion, what M. Lalonde talked about, and in other cases—it may not go to the extreme that you talked about—where there is really a difference of opinion. To leave it strictly in the hands of the municipal councils—sometimes, I would say and I would argue, what drives a municipal council in regard to planning is much different than what drives the

province. I would say, and I don't think I'm telling stories out of school here, councils tend to be more, "I want to get the development done, from the economic perspective of my community," and sometimes they don't look at some of the other issues. How do you deal with those legitimate cases where a council may say no, and the individual has no right to appeal? Because there are those cases. They are not all vexatious; let's get that clear.

Mr Kirkness: I can't disagree with you in terms of the qualitative statements. In terms of quantitative, I'm not sure that we would come to an agreement with our perception about how many decisions council makes that are correct and those that maybe aren't because they haven't looked at everything. I think in our presentation to you we conveyed that generally municipal councils make very good decisions.

Mr Bisson: Nobody disagrees.

Mr Kirkness: In fact, some would argue that really in the name of democracy, that kind of decision should certainly stop with an elected body.

Mr Bisson: But in a democracy a person always has a right to an appeal, be it through a judicial process or through a process such as the OMB. I guess what I have to ask you is, in your experience, of those cases that were not dealt with at the committee of adjustment level, that ended up becoming appeals before the OMB, would you say that you would consider a minority or a majority of those to be vexatious or frivolous?

Mr Kirkness: I would say the majority were vexatious or frivolous, from our experience in this region.

Mr Bisson: You're the first to actually say that, because most people I've asked this question of say they are in the minority. But the point still remains that there are still cases out there that end up before the OMB on minor variances where the appellant is actually right and the decision of the local council is overturned for good reason. How do you stop that person from not having their day in court?

Mr Kirkness: I guess maybe it would revert to my friend's position that if it's really that wrong, there's another route through a rezoning application. To the extent that the situation that you're describing occurs, maybe that's the safety. That's a sufficient safety valve, allowing the rezoning application to come in.

1700

Mr Bisson: We could take up that issue but it would take up more time than we've got.

Mr Smith: Thank you for your presentation and your general supporting comments with respect to this bill.

I want to take you to your suggested area of improvements and specifically your comments on what constitutes a complete application. Perhaps I can throw that question out to you, gentlemen. You're obviously involved on a regular basis in the preparation and receiving of planning applications. What do you believe the minister should include as tombstone information in a planning application?

Mr Burnett: I just recently completed an application for a plan of subdivision that must have had at least 40 different items that they wanted to have on there and that if, for failure of the completion of a bit of incidental

information on the plan, it wasn't to be circulated. I think that the application could have been circulated without that and it's a very difficult situation to sit here. I haven't specifically looked at chapter and verse, paragraph and sentence to what is important, what is critical and what is not as critical. Most planning departments will be able to determine whether it's complete, complete in the sense of having enough information if it's appropriately done, and it should be and can be circulated as it stands, with some additional information to come. That's a start on it. Laverne, do you have anything else?

Mr Kirkness: The tombstone information, I guess—is what you mean very basic information, Mr Smith?

Mr Smith: Yes.

Mr Kirkness: Well, a name, owner, address, map and of course a description of the proposal is necessary. I don't think that is at issue. It's all the necessary studies that might come along, depending on the planning context—you know, environmental, traffic, noise—and I think a list could be prepared of the potential studies that could be required to be included, and that would be part of the minister's role, through their staff, to provide that.

From there, I think there needs to be some guidance to the municipality. They just can't require them, one, two, three; there has to be some justification. Perhaps, on the basis of a list, the applicant should be required as part of the application to review those titles and indicate whether or not they think any of those things need to be attended to and, if so, how they intend to do that. But to actually go out and require circulations and very comprehensive kinds of associated studies is maybe beyond the application requirement or eligibility.

Mr Smith: Thank you. My second question: Earlier today we heard from Mr Boyd with the county of Lambton, and in his presentation he went so far as to suggest, with respect to the draft provincial policy statements, that there should be a complete elimination of any associated guideline documents. Would that be a position that you would support? You alluded at the outset of your presentation to the difference, perhaps, between public and private sector planning officials. Is that a position that you would support? What might be your comment on that particular matter?

Mr Kirkness: The planning director of Lambton suggested that there be no implementation guidelines?

Mr Smith: That's correct.

Mr Kirkness: We never really asked that question among our group, but I think, in fairness, that we can convey to you that we think there should be implementation guidelines. It's just that they should be much more brief and clear than the ones that we are presently working with. The legislation and the policies aren't enough, but it seemed like the implementation guidelines that we have to work with now were going so overboard that we're all asking for you to make those more brief and more clear. Yes, there will still be some interpretation, but at least there will be better direction given from the province.

The Chair: Thank you, gentlemen, for taking the time to make the presentation before us this afternoon. We appreciate your comments.

WATERLOO FEDERATION OF AGRICULTURE

The Chair: Our final presentation of the day, and in fact the last of about 170 groups making presentations on this bill, is from Heritage Acres, although I notice on the front of their brief there are other designations, also the Waterloo Federation of Agriculture. So perhaps more will be explained shortly.

Good afternoon to you both. Welcome to the committee. Just as a reminder, we have 30 minutes for you to use as you see fit, divided between presentation and question-and-answer time.

Mrs Virginia Berg: Thank you, sir. I think it's very appropriate, if I may say, that this committee began its day with agriculture and is going to end its day with agriculture. I would like to greet the committee and say that we feel it is indeed a privilege to appear before you today.

At the annual convention of the Ontario Federation of Agriculture in November 1995, I specifically asked the Agriculture minister, Mr Villeneuve, whether or not the government intended to consult the agricultural community about the proposed amendments to the Planning Act. The minister did indeed assure us that it was the government's intention to consult, and so I feel that we need to sincerely thank this committee and the government for these public hearings on the legislation, as well as for the 60-day consult period on the provincial policy statement.

We come to this committee today for three reasons, first of all because we believe strongly in the principle of democratic process, especially wherein elected officials seek genuinely to represent and to reflect those values deemed most important by their electorate. We also believe that it is incumbent upon us, as ratepayers and responsible citizens of this province, as well as, because we are farmers, significant stakeholders in land use planning, to engage in constructive dialogue and an exchange of information. Finally, our remarks to the committee today will stem from what we believe to be the most fundamental and important purpose of government, which is simply the protection of minority interests and the advancement of the common good.

With me today is Mr Larry Erb, who is president of the Waterloo Federation of Agriculture. Mr Erb will further introduce himself and will provide summary remarks.

My name is Virginia Berg. My husband, Paul, and I run a 100-acre, third-generation beef cow-calf farm in Wellesley township, and we have also been intensely involved in land use planning issues for about seven years now, which I would say culminated in 1993 with our successful representation before the OMB as unrepresented ratepayers.

I am a standing member of the NDP-appointed Rural Table on Planning Reform, which was a number of committees assembled by that government to advise on the effective implementation of Bill 163's reforms, particularly for the rural table as they might impact rural Ontario. I am very glad to inform the committee that the rural table has recently been reactivated by Mr Villeneuve.

Mr Erb and I have devoted countless—emphasize “countless”—volunteer hours in assisting with the creation of planning policy, both regionally and provincially, that we hoped and that we felt would protect the provincial interest in agriculture. While Mr Erb will address this issue in more detail for the benefit of the committee, I wish to emphasize that when we speak of the provincial interest, we mean both the preservation of the agricultural resource base for long-term food production as well as the protection of the farm community's inherent right to farm in an environment that is unhindered by intrusive, incompatible uses. This understanding of the provincial interest as it pertains to agriculture is identical with that of OMAFRA.

My purpose in speaking to the committee today is to look at the specific proposed amendments to the act as contained in Bill 20. I'll just skim over this part of my presentation. I realize that this committee's terms of reference refer only to the bill. No doubt the committee realizes that the provincial policy statement is inherently linked to that.

I'd just like to say that we're glad the government is retaining official policy status for agriculture under the Planning Act. That status is long overdue. I would also like to say that I commend the government for retaining the requirement that municipalities must designate prime agricultural areas. This is a very significant move that came out of Sewell. No longer do we speak simply about land; therefore no longer do we simply plan for land. We talk about large contiguous areas for agriculture.

1710

The first section of the bill changes the definition of “public body,” and it limits it in scope for the purposes of filing Ontario Municipal Board appeals. Other subsection make further provision for the minister to designate by regulation other ministries to be public bodies by definition or to exclude boards, commissions, agencies or offices of the province from being defined as public bodies. In other words, all provincial ministries except Municipal Affairs and Housing will lose their board appeal privileges. This move will facilitate the government's proposed one-window approach to planning and is being advanced under the cloak of adjectives like “streamlining” and a “service delivery improvement.”

We strongly disagree with this amendment and the proposed administrative change for these reasons: First, as a lay participant in the planning process, it seems confusing to me to have different definitions for such an important term in different sections of a piece of legislation. How can such inbred inconsistency promote clarity in the planning process? Second, I wish to remind this committee that environmental, agricultural, transportation, educational and housing matters etc are all listed as “matters of provincial interest” in section 2 of the act. Removing appeal privileges for all ministries except Municipal Affairs will essentially establish a hierarchy of position and power for that ministry that I personally find to be both unacceptable and offensive.

Third, how can the government expect stakeholders to offer full buy-in if we have no idea what the regulations will stipulate? The Waterloo Federation of Agriculture and I have expressed great concerns about this move, and

the gold attachment that I have provided you with is essentially a paper trail wherein we have consistently asked question after question about this approach, and we really haven't been given any solid answers. In fact, as late as last Thursday, February 22, the rural table was frankly told that the government has not yet figured out the mechanics of a one-window approach.

Some parties that have spoken to this committee probably feel that OMAFRA has historically failed to protect agricultural land from increased urbanization, and they may have suggested that it is time to try something else. I, as a farmer, am not so willing to place my trust and my interests in the hands of the ministry responsible for development and housing.

I agree, OMAFRA has failed, but it has failed because it has never had an appropriately restrictive policy environment in which to fulfil its mandate. The legislative framework of Bill 163's Planning Act, in my opinion, would finally have empowered OMAFRA in this regard. Contrary to its campaign promises, this government seems determined only to emasculate the Agriculture ministry.

Fourth, the legislation may in its legalese describe the ability to appeal to the board as a privilege for provincial ministries. However, the ability to seek justice from a higher or different level must be viewed as a right for ratepayers, since a proposed change in the legal use of our neighbour's land can frequently turn our lives as farmers literally inside out and upside down. Short-circuiting OMAFRA's land use planning role will result in irreparable harm to the agricultural community, both operationally and economically. To reiterate at this point in time, one-stop shopping for planning is simply a nebulous concept. Its alleged advantages are only theoretical, in our minds.

One of the fundamental premises of the reforms that were recommended by the Sewell commission was that in the new planning system the province would speak through policy and then rely on municipal official plans to implement those policies. Accordingly, the Minister of Municipal Affairs was empowered to prescribe official plan contents to ensure the creation of comprehensive municipal planning documents.

Section 8 of the bill removes the power to prescribe OP content, and section 9 authorizes the minister to exempt plans and plan amendments from ministerial approval. While the government's proposed amendments have, in our opinion, substantially gutted the Bill 163 Planning Act, they still appear to retain the policy-led approach. Section 8 should be deleted, as it will not encourage the development of comprehensive planning or planning documents, and section 9 should delete the approval exemption provisions, as they will further weaken, in our opinion, the province's ability to lead by policy.

Section 13 of Bill 20 reduces the time frames for planning authorities to decide on OP amendments from the presently stipulated 180 days to 90 days. In his speech to the annual conference of the Association of Municipalities of Ontario in August of last year, the Minister of Municipal Affairs stated:

“There are many parts of [Bill 163] that just don't work, and that I believe will create unnecessary delays

and red tape. We're going to scrap those parts of the Planning Act and bring in a system that works for Ontario.... We're going to make significant strategic changes to the legislation...that speed up the process."

I find it absolutely amazing that Mr Leach, with all due respect, after only two and a half months in office, and a mere five months after the new Planning Act had been declared into force, could determine that the new system "created unnecessary delays," when it was created to prevent them, "wasn't working" and "was too slow." Perhaps Mr Leach should share his crystal ball with the rest of us.

In a region of Waterloo planning committee report, the proposed reduction in time lines is described as "completely unrealistic for current administrative practice." The report further suggests that "A practical reduction in processing times [could] only be achieved through major restructuring...greater delegation...[and] subdelegation of selected functions." The report concluded that "A large amount of systemic change will be needed to make the new time lines realistic."

I can't take the time to fully relate to this committee our personal planning nightmare. I guess most ratepayers who are involved in this process have one of those tucked into their closets. But I hope the committee will consider our story as I have related it in the buff-coloured attachment. Had we not taken both the township and the region to the municipal board, 16 acres of prime land would have been unnecessarily urbanized, village wells would have been contaminated and at least two farm operations, of which ours was one, would have remained frozen from further expansion.

I wish to share my story with the committee for several reasons. First, it's real. It happened. Situations like ours have been happening all over this province, and I believe that under these Planning Act amendments, they will continue to happen.

Second, the committee should understand that this happened in one of the most agricultural townships, in one of the most restrictive regions in this province, under the guiding phraseology of "shall have regard to," which the government now proposes to return us to.

Finally, this injustice happened because a local council had too much flexibility and therefore too great a sense of power. This government's constant emphasis on municipal empowerment truly scares us to death, because we know first hand that unbridled power at the local level easily translates into conflicts of interest, corruption and a complete disregard for the values of the electorate that I referred to in my opening remarks.

The regional report I talked about earlier also stated that "Despite initial scepticism, early experience with applications subject to Bill 163 indicates that the time lines were workable and appropriate." The report went on to say that the time lines are now being reduced "for two reasons... [one of which is] to permit developers faster access to the OMB where any form of obstruction or controversy is encountered."

Members of the committee, I sincerely contend that this amendment, as well as others proposed in the bill, will result in councils everywhere being literally scared to death to say no to a developer. I don't know how

many times in our own situation our local planner or one of our councillors said to us: "We can't say no to this subdivision. The developer will take us to the board, and the developer will win."

Is this really municipal empowerment? Does Bill 20 really espouse the fundamental need for natural justice in the planning system? How will this amendment result in comprehensive, long-term planning at the local level?

1720

I urge this committee to amend section 13 by restoring the time period for OPA approval to 180 days and for these same reasons suggest that other time line reductions may also need to be reconsidered.

Sections 29 and 30 of the bill contain amendments that will remove the authority to require a public meeting for either a proposed plan of subdivision or a proposed consent to sever land. Again, because the regulations are invisible, we don't even know if municipalities will be required to give notice for these applications.

Since learning about this government's intention to dismantle the Planning Act, Mr Erb and I have closely followed the process as well as the players involved. These are some of our candid impressions of the government's approach to this.

First of all, this government seems to have forgotten why the Sewell commission was ever established: The planning system in Ontario lacked integrity; it was considered inefficient and full of delay; and it was also considered not sufficiently open or accountable to all stakeholders. I urge committee members to review the Lieutenant Governor's commissioning order in council which established the mandate of the Sewell commission. Perhaps you'll read it for the first time. It will take you back a bit, but I'm sure it will open your eyes.

Secondly, this government also seems to have forgotten exactly how extensive that public consultation under Sewell was. Here are just a few of the statistics: Some 23,000 people across this province talked to the commission; another 2,083 written submissions came in and an additional 600 letters of comment were received; 500 newspaper articles documented the work of the commission; and its interim draft report in 1992 was distributed to the tune of 30,000 copies. Prior to tabling Bill 20 in the House, it seems to us as if this government consulted only with the powerful lobby groups of UDI, the Urban Development Institute, and AMO, thus and unfortunately ignoring everyone else who collectively shaped Bill 163.

Based on these impressions, we feel therefore that these amendments regarding notice and statutory public meetings will place too great a burden on individual land owners to be constantly vigilant regarding local issues. They will result in many instances, like our own, where natural justice is denied. These amendments will give unnecessary and unfair advantage to developers and will likely result in many applications being approved simply by default.

The applicable subsections in sections 29 and 30 should be deleted in order to restore the authority to require public meetings. Further, we believe that municipalities should be required to give notice for both consents and subdivisions, and we must emphasize that this is very, very important in rural Ontario, where planning

doesn't happen in the same way that it happens in urban Ontario.

My final point to the committee: We've briefly alluded to our concerns about section 3 of the bill, which lowers the standard for adherence to policy from "shall be consistent with" to "shall have regard to." The committee has no doubt heard a great deal about this one change alone, and that's not surprising. It's a very important change.

Both Mr Erb and I made presentations and submissions to the Sewell commission. A major reason why the prior system was not yielding the intended results was because municipalities, in their unceasing quest for increased assessment, conveniently had more regard for some policies than they did for others.

It is our impression, because we participated in the work of the commission, that many voices petitioned the commission to recommend a requirement to conform to policy, the strongest degree of compliance deemed possible. Therefore, I would like to suggest to this committee that by recommending that decisions "be consistent" with provincial policy, the Sewell commission was in fact seeking to establish a compromise position in order to achieve a workable consensus.

Finally, if this government is genuinely serious about effectively protecting all provincial interests and is genuinely serious about realistically empowering their municipalities and is genuinely serious about removing unnecessary obstacles to appropriate growth, it will delete section 3 of the bill and retain the existing "shall be consistent with" phraseology.

I turn you over to Mr Erb.

Mr Larry Erb: Do you wish to ask questions or shall I continue?

The Chair: It's as you see fit, Mr Erb. You've got nine minutes remaining.

Mr Erb: I'll continue then with our presentation. First of all, thank you very much, ladies and gentlemen, for having us. I'm not quite sure whether this is an honour to be the last person to present to you, but I am taking advantage of that a bit in the way I'm presenting my comments. I do appreciate our discussions with Mr Hardeman in the past and have gotten to know him a little bit. We appreciate those kinds of contacts with MPPs and people who do represent us. I refer you to the white-coloured copy, the Waterloo Federation of Agriculture. That's what I will be reading to you.

Land use planning in Ontario is an issue of diverse opinions and varied levels of commitment to the issue of food-producing land protection. The Waterloo Federation of Agriculture has a history of involvement in land use planning at a local level. We believe that this experience can help us to share our concerns on the issues and priorities that must be included in Bill 20, the provincial policy statement and the implementation guidelines. We urge you to examine carefully the contents of these documents before voting in Parliament to put the wheels in motion on a new land use policy. The impact of poor planning policies will exist long after new rules and regulations are put in place to correct them.

In the past few weeks, you have no doubt heard from many private interest groups, read studies, heard statistics

and been pressured to make changes to Bill 20 to suit the needs or wants of many individuals involved in the planning process. This is a necessary part of the democratic process and we commend you for it. As you conclude this very demanding exercise, the reality that decisions must be made confronts you. Land use planning is land use, and land is one of the four major parts of human existence: land to produce food, clean air to breathe, clean water to drink and energy to keep you warm and make things grow. I refer you to the footnote. That comment comes from Tony Morris at the recent directors' meeting of the OFA. Without these, very little else matters. It is your task to see that these priorities are protected in land use planning.

I'll just make a short summary here.

Section 1, food land protection: The provincial policy statement makes reference to prime agricultural land protection, but leaves it to the imagination as to how it will happen. Bill 20 must include a definite plan of protection and ensure the necessary checks are in the system. The proposed one-window approach will not ensure much-needed surveillance of the development industry. The mentality that all land is a development opportunity is far too prevalent in the minds of investors, speculators and individuals looking for profit without caring about the long-term consequences of a shrinking food land base. Protection of food-producing land must come under a "consistent with" policy statement or it becomes meaningless and worthless to the long-term need of food security.

If I may be a little callous here, I indicated in a letter to Mr Hardeman that's included in your parcel here that the one-window approach to planning could very well become a one-bedroom approach to planning. I want you to think about that a bit, because we do not want agriculture to be on the outside looking in and we will not accept that way of doing business.

Summary of negative impacts to food land protection in Bill 20: the change to "shall have regard to" instead of the existing "must be consistent with"; the lack of approval requirements for official plans; no public meeting required for plans of subdivision or consents, and there's a note here that easier access to make changes to official plans and shorter response time frames could lead to settlement expansion on to prime agricultural lands and an increased level of land severance requests; and limitations of appeals and one-ministry access to the Ontario Municipal Board.

Section 2, protection of agriculture and its ability to farm: I refer you to the difference between ability to farm and right to farm. I think it's a very important difference.

Under the heading of "Principles," the new provincial policy statement states, "Promoting efficient development and land use which stimulate economic growth while protecting the environment and public health."

Bill 20 must clearly define rural economic development to ensure the future viability of agriculture. World market demands will require agriculture to be flexible and to be able to adapt to changes that are necessary to be competitive in the world economy. Land use planning policies must give the agricultural community the ability to expand, diversify or to change from one commodity to

another without hassle and complaints from rural non-farm neighbours.

The biggest threat to agricultural viability, next to low commodity prices, is scattered rural development. The fragmentation of farm land through severances will escalate the price of land, make expansion more costly and force agricultural industry to find other sources of income to survive. Non-farm residents in agricultural areas will require the strengthening of the Farm Practices Protection Act to ensure that the ability to farm is maintained. The very real relationship between land use planning and right-to-farm legislation must be recognized under Bill 20 or unacceptable restrictions to agriculture will be the result.

The perception that scattered development brings rural prosperity is a myth when you consider the implications and the additional cost to farmers to protect their interests. I believe, if I'm correct, there's also an insert that has to do with the Brighton study, which did in fact indicate that scattered rural development does not contribute to the viability of the municipal—in fact, it costs money. Scattered rural development costs money.

Surveillance of municipal land use planning applications is time-consuming and appealing a local decision to the OMB could be very costly to the farm community. We cannot allow unrestricted and reactive planning policies to force the farm community to protect its interests at the local level. Bill 20 must ensure that municipal policies and actions are consistent with the provincial policy statement. This must be done through the legislative framework of Bill 20.

Summary of Bill 20 and the implications to the ability to farm:

Again, the change to "shall have regard to" from "must be consistent with."

The Ministry of Municipal Affairs as the sole ministry for appeals, and a note: OMAFRA's role in land use planning is being greatly reduced. The responsibility for surveillance will be completely up to private individuals or farm organizations.

Local decisions on land use policies, that is, local autonomy. This will lead to the lack of uniformity in land use planning policies across Ontario, and municipalities with more restrictive policies will be under pressure to change.

I want to refer you to the article on the last page of this submission. It's under "Ventax" and it's an article that was just in the local newspaper in the past week. I would suggest to you that this is sandbox mentality. "If you don't let me do this, I'll go somewhere else." It is not the kind of acceptable policy statement or a policy reaction that we can allow to happen at a local level, and this is what happens when you have people who want to protect their own interests. It is very much an example of what could happen as different municipalities have different rules and regulations to work by.

In closing, we appreciate the opportunity to make these concerns known to you. We also understand that Bill 20 includes many proposed changes to the Planning Act. Our inability to sort through and understand all of them is acknowledged. However, the basics of good land use planning are clear. Irresponsibility to ensure future generations' ability to feed themselves is on the line. Your support of Bill 20 should only be given after careful consideration of the total package, and that is the provincial policy statement, Bill 20 and the implementation guidelines. We cannot decide how long or how much food will be required to feed the nations of this world. Our efforts to protect the basics of life are of number one importance.

The Chair: Thank you, and your timing is perfect. That's exactly 30 minutes. I'd like to thank you for the very detailed and thorough presentation. It was an excellent one to end on, I'll say.

Thanks too to all the other 170 groups that made excellent presentations and to the members, who had excellent questioning, and for their decorum and their camaraderie these last two and a half weeks.

This being the last item on the agenda, the committee stands adjourned till 1 o'clock, Queen's Park, room 228.

The committee adjourned at 1735.

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Chair / Président: Gilchrist, Steve (Scarborough East / -Est PC)

Vice-Chair / Vice-Président: Fisher, Barbara (Bruce PC)

*Baird, John R. (Nepean PC)

Carroll, Jack (Chatham-Kent PC)

*Christopherson, David (Hamilton Centre / -Centre ND)

Chudleigh, Ted (Halton North / -Nord PC)

Churley, Marilyn (Riverdale ND)

Duncan, Dwight (Windsor-Walkerville L)

*Fisher, Barbara (Bruce PC)

Gilchrist, Steve (Scarborough East / -Est PC)

Hoy, Pat (Essex-Kent L)

*Lalonde, Jean-Marc (Prescott and Russell / Prescott et Russell L)

Maves, Bart (Niagara Falls PC)

Murdoch, Bill (Grey-Owen Sound PC)

*Ouellette, Jerry J. (Oshawa PC)

Tascona, Joseph (Simcoe Centre / -Centre PC)

**In attendance / présents*

Substitutions present / Membres remplaçants présents:

Bisson, Gilles (Cochrane South / -Sud ND) for Ms Churley

Carr, Gary (Oakville South / -Sud PC) for Mr Maves

Conway, Sean (Renfrew North / -Nord L) for Mr Hoy

Galt, Doug (Northumberland PC) for Mr Tascona

Hardeman, Ernie (Oxford PC) for Mr Carroll

Smith, Bruce (Middlesex PC) for Mr Chudleigh

Wood, Bob (London South / -Sud PC) for Mr Murdoch

Clerk / Greffier: Arnott, Douglas

Staff / Personnel:

Murray, Paul, research officer, Legislative Research Service

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ISSN 1180-4378

Legislative Assembly of Ontario

First Session, 36th Parliament

Assemblée législative de l'Ontario

Première session, 36^e législature

Official Report of Debates (Hansard)

Wednesday 28 February 1996

Journal des débats (Hansard)

Mercredi 28 février 1996



**Standing committee on
resources development**

**Comité permanent du
développement des ressources**

**Land Use Planning
and Protection Act, 1995**

**Loi de 1995 sur la protection
et l'aménagement du territoire**

Chair: Steve Gilchrist
Clerk: Douglas Arnott

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
RESOURCES DEVELOPMENT

Wednesday 28 February 1996

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DU
DÉVELOPPEMENT DES RESSOURCES

Mercredi 28 février 1996

*The committee met at 1308 in room 228.*LAND USE PLANNING
AND PROTECTION ACT, 1995LOI DE 1995 SUR LA PROTECTION
ET L'AMÉNAGEMENT DU TERRITOIRE

Consideration of Bill 20, An Act to promote economic growth and protect the environment by streamlining the land use planning and development system through amendments related to planning, development, municipal and heritage matters / Projet de loi 20, Loi visant à promouvoir la croissance économique et à protéger l'environnement en rationalisant le système d'aménagement et de mise en valeur du territoire au moyen de modifications touchant des questions relatives à l'aménagement, la mise en valeur, les municipalités et le patrimoine.

The Chair (Mr Steve Gilchrist): Good afternoon. I call the meeting to order for clause-by-clause debate on Bill 20. We'll start off, of course.

Ms Marilyn Churley (Riverdale): Mr Chair, there is something I would like to table with the committee. The last day we met in Toronto, there was a misunderstanding when Ms Kathy Cooper from the Canadian Environmental Law Association was here as to whether or not she met with the Minister of Municipal Affairs and Housing. I clarified on her behalf that misunderstanding. She did send me a letter, which she copied to the Minister of Environment and Energy and the Minister of Municipal Affairs and Housing, clarifying her remarks herself, and I would like to table that with the committee so that all committee members may see this letter.

The Chair: Thank you, Ms Churley. A copy of that has been distributed to all members already.

Ms Churley: Oh. Great.

The Chair: Are there any comments, questions or suggestions to section 1 of the bill? I understand there's an NDP motion.

Ms Churley: Yes. Mr Chair, subsection 1(2) of the bill, section 1 of the Planning Act.

I move that subsection 1(2) of the bill be struck out.

The reason why I suggest this is that my amendment literally reverts back to the definition contained in Bill 163. You can talk about official plan contents and why it's important to allow the minister to prescribe contents, but official plans should be comprehensive planning documents. The subsection under your bill, Bill 20, makes it a perfunctory exercise. It fails to protect the environment, and it also fails to protect the rights of businesses and citizens. This is something that during the hearings I spoke to and we heard constantly from com-

munity groups and environmental groups that it's a serious flaw in the bill. I would ask that all members of the committee support this amendment.

Mr Ernie Hardeman (Oxford): My understanding of the amendment is just to strike out the definition of "official plan." We believe the definition does need to be struck out, as it refers to the plan approved by an approval authority. As we go on through the bill, those directions have changed through the bill, so we think it inappropriate to leave that definition in the first part of the bill. So we would not support the amendment.

The Chair: Any further comments? All those in favour? Contrary? I deem the motion to fail.

Any further amendments to section 1?

Ms Churley: Yes, subsection 1(3) of the bill, section 1 of the Planning Act.

I move that subsection 1(3) of the bill be struck out.

This amendment, as everybody knows, is dealing with the definition of "residential unit." The amendment that I'm making again reverts back to the definition contained in Bill 120, the NDP government's act concerning apartments in houses. This wording allowed residential units to have a means of egress through another residential unit. This is important because many apartments in houses have this arrangement already.

Mr Chairman, this is the first of several amendments that I have to make on apartments in houses. I want to speak for a few minutes to this and other amendments I will be making.

We made the point time and time again during the committee hearings, and housing activists and in some cases people who live in basement apartments came to speak to us and it was made quite clear to us that this section of the act is a problem. I find it quite ironic, and I know my Liberal colleagues as well spoke frequently to this, that this is a case where the private sector wants and has been enabled to provide affordable housing instead of the taxpayer. Your government, while in opposition, as well talked over and over again about the need to get out of social housing.

I just want you to be listening carefully, Mr Chair, because I may change your mind yet. Who knows? I know you're a fair man.

Mr John R. Baird (Nepean): He can't vote, Marilyn.

Mr Gary Carr (Oakville South): Unless it's actually tied.

Ms Churley: Well, we might have a tie at some point. Some of you might come over to this side. Who knows? Anyway, back to the issue here.

You're literally taking away a very creative NDP plan, surprise, surprise, to allow the private sector to supply

affordable housing for low-income people in this province. And what you are doing, in the process of getting out of social housing and at the same time reducing welfare rates so it's even harder for low-income people and people on welfare to find affordable accommodation, the one area where there is an incentive within the law for the private sector to supply affordable housing, you are snatching that right out from under them, and I believe it's going to cause incredible hardship to the low-income people of this province at a time when people are suffering great financial stress.

I know there are people in this city, indeed in the riding where I live, literally being kicked out of their apartments because they can't afford it, and they're already having a very difficult time finding affordable accommodation. People are now quite concerned about the loss of rent control and the implications of that. Are their rents going to go up even higher? Experience in the past has shown that without strong rent control, that will happen. So the question is, what are the lower- and middle-income people going to do?

I think that this is a very, very important amendment, and in my view, it fits so well with the Conservative philosophy. It doesn't make any sense whatsoever what you're doing here, except you're caving in to certain élitist municipalities that didn't like our bill when we brought it in and still don't like it, because in our experience, in many situations, we know some of these municipalities wanted to keep certain classes of people out.

I'm sorry, but we will revert back to that situation again, and we will revert back to illegal basement apartments again, which is one of the reasons why we brought in a bill. The apartments are out there anyway. People need them, in many cases, to pay their mortgages. They build them. If they're illegal, they're not inspected. There are serious safety and fire hazards.

So this is a very serious change that I again strongly recommend that the government members support. I think you're going to be very sorry, you're going to regret it down the road if you don't reverse your position on this and support the amendment.

Mr Hardeman: First of all, I want to say I don't want to infer that the previous government did not have an abundance of creativity.

Mr Carr: They had creativity all right, just in the wrong place.

Ms Churley: You are frisky over there.

Mr Carr: We missed you.

Mr Hardeman: I do want to say that supporting this amendment and removing the definition would indeed change the intent of the legislation where the government is committed to giving the responsibility of creating housing in the appropriate areas where the services are available and where the needs of the people can be met. We want to put that responsibility or that authority back to the local tier of government where they are closest to the people and able to make the decisions based on the needs of their community and their people. We think they will do a far better job of that, and also then after that has been created to be able to service those people, not to just have them put there and being forgotten. I think

we're convinced that that's the direction we should go and we will not support this amendment to redefine in the definitions what is a residential unit.

Mr Doug Galt (Northumberland): Just one short comment that I thought was kind of interesting on the road—maybe I'll back up just a bit. While we were in Toronto, and I respect your comments, we did hear a lot of concern about basement apartments or second dwellings in a home, but on the road it was a rarity that we heard it. Yes, it did come up, but in some communities, such as London, it did not come up. It's just not a big issue outside of Toronto. So what's really happening in the previous legislation was Toronto solutions being dictated to the rest of Ontario, and that's not satisfactory to the rest of Ontario and I have to support this amendment—not yours, but the bill.

Ms Churley: In response to that, I think it's quite telling that Dr Galt admitted that outside of Toronto this is not a big issue. It didn't even come up. I would say that that's another argument in my favour here. If it's not a big issue in municipalities, clearly it hasn't been a problem, and what the original act, or the original bill under our government, the NDP government, did was to deal with a very specific problem in very specific areas. If it's not an issue in other areas, then so be it. That's fine. That's great. It may become an issue, but I would say that what you're doing is taking away the rights of private property owners and at the same time taking away the ability for people to find affordable accommodation uniformly across the province. I don't think that's fair, and it certainly is not common sense.

1320

Mrs Barbara Fisher (Bruce): We should not overlook the fact, however, that we're still giving municipal councils—it's almost sounding like we're prohibiting second-unit application anywhere in the province of Ontario, and that's really not what we're doing at all; what we're doing is we're again returning it to the jurisdiction of the very able, elected officials at the municipal level to make that decision.

Within the act, as the revised act is presented, it also allows for the protection of the potential resident in that they must abide by the building code, they must abide by fire and safety, and so on.

There's almost an overture here that we're prohibiting it infinitely and that's not the case at all. A municipal council will still have the right to decide if and where and when it wants other-unit housing. I just needed to add that, because there was almost an implication that we're prohibiting it and that's not the case at all.

Mr Sean G. Conway (Renfrew North): This is an issue, by the way, there's no question, in large centres and small, but I don't understand Ms Churley's definitional intent here. Do you want to just give us some clarification what you intend here? You want to strike out 1(3) of Bill 20, thereby reverting the definition of a residential unit to that which was contained in Bill 163.

Ms Churley: Actually, in Bill 120. I'm talking about Bill 120, which was a bill dealing with apartments in houses, and what this does by striking out the section is it reverts it back to the definition under Bill 20.

Mr Conway: Which is to say what?

Ms Churley: Which is to say—I don't have the exact wording in front of me—that private-sector apartments in houses are allowed in any municipality across Ontario, that a municipality cannot make motions, which has happened in certain municipalities in the GTA area, that forbid secondary apartments in houses.

Mr Conway: I certainly know where you stand on the substantive question, but then surely there's an issue of, is this even in order? Does this not seek to undermine one of the fundamentals of this Bill 20? I'm quite prepared to debate that, but I think for those of us who are not expert on this matter, we will presumably debate this question at some later point in this exercise, but if what you intend to do in a definitional amendment is to alter a cornerstone policy of the bill, whether you like it or not is immaterial, is that what you intend here?

Ms Churley: I intend that this subsection be struck out so that, yes, it can revert to Bill 120. You can certainly ask the Chair if this motion is in order.

Mr Conway: I don't mean to be difficult. I just ask the question. That's a rather daring attempt.

Ms Churley: If you weren't here, Mr Conway, it certainly would've gone unnoticed. Thank you for that.

Mr Baird: Are you going to rule?

The Chair: I think the motion's perfectly in order. There being no further comment, all those in favour of the motion? All those contrary? I deem the motion to fail.

Are there any further amendments to section 1?

Ms Churley: I had meant to ask for a recorded vote on that. Is it too late?

The Chair: I believe you're too late.

Ms Churley: Can I ask for unanimous consent to vote over again so that we can have a recorded vote.

Mr Baird: Is that in order?

Ms Churley: I can ask for unanimous consent on anything.

The Chair: Yes, it is in order.

Ms Churley: Could I ask for unanimous consent.

The Chair: No problem? A recorded vote.

Ayes

Churley.

Nays

Baird, Carr, Conway, Fisher, Galt, Hardeman, Lalonde, Murdoch, Smith.

The Chair: Are there further amendments or comments or suggestions to section 1?

Ms Churley: I move that subsection 1(4) of the bill be struck out.

This amendment removes the Bill 20 provision making MMA the only ministry which has the right to take matters to the OMB and represent the government in other planning matters. This is a very serious problem in terms of protecting the environment, given that the interventions of the Ministry of Environment and Energy or the Ministry of Natural Resources will be submerged under the MMA.

I remember when I asked the Minister of Municipal Affairs and Housing how that would work. He gave some vague assurances that the other ministers would have a

say in a decision whether or not it would be taken before the OMB, but we have absolutely no indication what the input would be.

There is a great fear that if the Minister of Environment and Energy and the Minister of Natural Resources have no formal role in this process, their concerns, should they have any—I can guarantee that in many cases they will—there are no guarantees they will have significant input and that their concerns will be registered in a formal way.

Therefore, because there were no assurances, no plan presented as to how this would work, no protocol as to how it would work, there's a very deep concern that if the Minister of Municipal Affairs and Housing wants something to go ahead, it'll go ahead and the concerns of MNR and Environment and Energy will be either disregarded or pushed aside in the context of a cabinet discussion.

I urge that this subsection be struck out on that basis.

Mr James J. Bradley (St Catharines): It's absolutely essential that this be done if we're really going to see the concerns of those ministries, as has been mentioned, put forward by themselves as opposed to going through the Ministry of Municipal Affairs and Housing.

Having been responsible for a ministry, I well recall the conflicts that took place within government, as should take place within government, from ministries that had different views. The problem is that the Ministry of Municipal Affairs and Housing, in my view, is concerned with getting housing built and is concerned with development taking place. This is fine in some circumstances, but I don't think they can adequately reflect the views of the Ministry of Natural Resources, for instance, when we're talking about wetlands, can reflect the concerns of the Ministry of Agriculture, Food and Rural Affairs when it comes to those matters which relate to that ministry, and of course the Ministry of Environment and Energy, which ultimately is responsible.

What happens if you allow simply one ministry to be responsible is that if mistakes are made down the line, very often it's the grateful taxpayer, through some kind of fund, who ends up picking up the tab. While people save some money, I guess, in the short term, and save some annoyance in the short term with government, in the long term—I can recall, for instance, in Kitchener, you may recall yourself, reading of a development where they had some explosions take place because the site was next to an old dump site and the methane gas was coming through.

The Ministry of Environment and Energy has access to that kind of information and has people expert in that field. They may pass that along to the Ministry of Municipal Affairs and Housing, but there's no guarantee that ultimately is going to be reflected in the government position, which is why I think that kind of independent stance being able to be taken by ministries is important, just as it is that individual stances by members of the Conservative or Liberal or NDP caucus, within a caucus meeting, take place.

I certainly express grave concern about that and unless the other ministries can have an equal say, I think we're going to see decisions made which in the long term are

going to be very unwise and are going to be more costly to the province as a whole than had those matters been addressed by those ministries at the very beginning.

1330

Mr Hardeman: We will be voting against the amendment. It's very important to realize that the intent of Bill 20 is to reduce the time and increase the efficiency of the planning process in Ontario. We don't believe the appropriate way to settle the differences between the ministries, if there are conflicting views in policy and the interpretation of those policies, is to deal with that at the OMB. They in reality are all ministers and ministries of the same government, and if it deals with the priority-setting of policy areas, that should be done within the government to come to a position that could deal fairly with all the people of Ontario and make those policy decisions by the elected officials.

I do not see this one-window approach as a way of taking away from the validity or the stature of any individual ministry. I don't believe that in this one-window approach the Minister of Municipal Affairs and Housing becomes a superminister, all-knowing and all-doing. I believe each ministry will still have the same input it's always had, but I think through one window they will all come together and be able to discuss the issues and weigh the priorities and come up with one position that would or would not go for resolution before the Ontario Municipal Board.

I think the board is a very good place to deal with the differences of where government policy, or any government's policy, conflicts with the wishes and needs of the population. The OMB is a great place to have that settled. But I don't think it's an appropriate place for the government to spend the people's money trying to decide which minister is the authority. Each ministry is set up to provide the expertise and to deal with the issues that come before it. It's very appropriate they would then consolidate that opinion, weigh the pros and cons of it all, and take forward a government position to deal with the best interests of the population. I would recommend that government members not vote for this amendment.

Mr Conway: This is a subject, and I sat in on a number of the hearings, where clearly there is a range of opinion. On the face of it, no one can have any quarrel with the intention here. It's a very neat and tidy notion, and I think for anyone who has not served in the executive branch of government, it's something you ought to endorse.

It's a hard argument to make because the political science is all on the side of what government intends to do. Practical reality and experience would suggest that's not always the case. I have seen in all governments here, over 20 years and some months, some often quite comedic exercises, where you've literally got ministers of the crown who are pledged to the same solidarity publicly fighting with one another because they've lost the battle or they think they're going to lose the battle at cabinet, or they've lost part of the battle at some tribunal and so they then seek some recourse, and often that is in the court of public opinion.

I remember a day in this very room about 18 years ago where the poor Minister of Health, Dennis Timbrell—I'll

never forget the crimson look on his face as he had to watch a colleague, the Minister of Finance—some of you heard me say yesterday, there is this kind of Rotarian view that the interests of government are always essentially one at the end of the day. That's not usually the case. There are fierce interdepartmental quarrels. In that case the Minister of Finance was caught—this is the famous budget flap of 18 or 19 years ago, over those OHIP premiums, and a very capable man named Darcy McKeough. The argument that the Ministry of Health was purportedly to have been won over with was Darcy McKeough's letter to the Globe and Mail, published weeks after the fact, and I might add inserted into the debate after the fact.

What am I trying to say here? I'm just trying to say that at one level it's a good argument and if you can convince me—and you really can't—that humankind is going to change overnight by virtue of this legislative dictate, fine.

My worry, quite frankly, and I say this particularly to people like the parliamentary assistant, is I suspect the losers in this are going to be people who live in places like Oxford and Bruce and Northumberland. When you think about things like the Saltford dump, and some other things that I can think about, I'm going to tell you, you get a pro-development mentality or you get a minister who admits that he doesn't even bother to read legislation and/or ministerial briefing notes, and if you live in Bruce and Oxford I have a feeling you and your colleague the Minister of Agriculture particularly are going to be in for some really remarkable surprises.

The one-window approach may in fact cure all of that. My guess is that it won't. I understand the argument to try to streamline the process. I think we all want to do that. But, I tell you, you do this with perhaps a naïve expectation. I thought the presenters yesterday—the woman from north Waterloo, Crosshill, Wesley township, that case study, for any of you who live in rural Ontario, I thought, boy, that's got a ring of credibility to it. I just think of all of the cases that I know where—again, you've heard me say over the course of the last couple of days, you get a department like Natural Resources—and we had some presenters somewhere in the last day or two make this point. You get the development part of MNR at war with the conservation part of MNR. You're going to be hard-pressed to get one opinion out of that one department, and that's before MNR gets to go and talk to Environment and Agriculture.

I'm expected to believe that in this new order—an order, by the way, which is going to have many fewer people. I don't, at one level, have a big problem with that, but you're going to streamline the process. There are going to be clearer lines of demarcation. There are going to be fewer people involved; there are going to be just fewer people at the county, at the region, at the Ontario government level reviewing all of this. I like a lot of local decision-making. Where I come from there's an expression—I won't use it because it's a bit inelegant. I just expect that everybody is going to understand that it is a new day and if you screw up you're going to get to pay. You're going to get to pay locally. You're not going to have recourse to the old money tree, which is no

longer around here. My experience over the years is that some of the people who complain the loudest about the need for remedial action are often people who are there at the creation of the problem in first instance.

So I just simply say that I understand the argument for a one-window approach. The political science of it is very compelling. The reality of a big, multifaceted provincial government with lots of inherent conflicts contained within the ambit of its jurisdiction I think is somewhat to the contrary. I share some of Mr Bradley's concerns and don't expect that the one-window approach is going to solve the problem here. I suspect that some people who will embrace it will be the first to bear its lacerations, but I might be wrong.

Mr Gilles Bisson (Cochrane South): On this, I just want to add our voice from the New Democratic caucus in regard to what we feel this is going to lead to. I discussed yesterday at committee when we had a few of the presenters in front of us one of the cases that we had with a particular development within our community being upheld because of some bad planning processes. I guess what I want to say is this: The problem that you're going to get into when you move to the one-window approach is that you're really not going to have the expertise within MMA to be able to adequately deal with concerns that we need to deal with as set out under provincial policies that already exist within the province of Ontario.

1340

For an example, if MMA is the only window that is able to go out there and to appeal the decision to the OMB, what happens if you have a particular concern where they don't have that expertise within their own ministry? There are all kinds of environmental issues where we have staff that we pay good money to in the Ministry of Environment, who are biologists or scientists who understand the issues far more than you or I, I would say, Mr Parliamentary Assistant, whose business it is to really understand how all of this ties into the application before the municipality at the time.

If we go to the one-window approach with only MMA being able to do that, I really fear that we're going to be going back into a situation where, quite frankly, we may end up allowing particular developments to go forward strictly on the basis of the argument that economically the council supports this particular proposition, they feel that it's important for the development of their community from an economic prospect, and quite frankly, the voice of reason from within another ministry such as the Ministry of Environment or MNR may not be taken into consideration adequately by the minister.

What happens if, Ernie, you're not the parliamentary assistant and Mr Leach is not the minister, who truly care about these environmental issues, supposedly, because that's what you say in the title of your bill? What happens if, God forbid, we end up with a Minister of Municipal Affairs who is a pro-development minister, who says, "I'm not so concerned about the environmental issues that affect development"? You're really going to be in a situation where you're giving that one individual in the province a heck of a lot of power to be able to override the concerns of some of his or her cabinet colleagues at the table and also I think the voice of

reason within those communities when it comes to a particular development. I don't think really that you've had the opportunity to think about this and to take a look at what the future impacts would be.

I think the Liberal caucus and our caucus support the idea of trying to find a way to make the coordination of those efforts within the ministries better. I think we can all point to examples where one ministry might have been working cross-purposes to another. I think you can always go out and find those examples, but I don't think, quite frankly, those are the majority of cases.

What you're going to really end up with—and I hope government members are listening—is that you're going to end up in a situation where the Minister of Municipal Affairs is going to have the right at the cabinet table to basically, over the objections of his or her colleagues, put forward developments that may not be in the best interests of the community's economic interests if that particular development is a bad one.

I used the example yesterday in the city of Timmins of the E.R.G. project. That project went forward because our council said: "That is an economic development priority. There are going to be some 100 jobs created through the construction of that project and about 60 jobs ongoing from that point that are very good, well-paying jobs." That was the basis by which the council pushed with my friend Jim Bradley and others at the time that particular project to go forward.

It turned out it was an utter disaster. The company went bankrupt, the suppliers were left holding the bag with bills that were unpaid, and the community, being the province of Ontario and the city of Timmins, ended up with an economic disaster in the middle of the city of Timmins. Who's going to pay the bill to clean that up? We would have been better off at the very beginning to have the people at Environment and MNR and Ministry of Mines to have the voice to be able to voice reasons with strong policies that you have to be in compliance with at the same time as having their voice heard before the OMB.

I just think this is going to cost us money in the long run. If your argument is you're doing this because it's going to streamline and save us money, I would argue that in a lot of cases you're going to end up spending a heck of a lot more money than we've got by allowing those particular projects to go ahead. I would just urge government members to reconsider that particular proposal. I think it's really a dangerous step in the wrong direction.

The Chair: All those in favour of the motion?

Mr Bisson: A recorded vote on this.

Ayes

Bisson, Bradley, Churley, Conway, Lalonde.

Nays

Baird, Carr, Fisher, Galt, Hardeman, Murdoch, Smith.

The Chair: I deem the motion to fail.

Are there are any further amendments to section 1?

Mr Bradley: I'll try this one. I'll read it, first of all, and see, if you didn't support the last one, if you might

support a more limited amendment. I'm sure you'll tell me if I can move this at this time.

I move that subsection 1(2) of the Planning Act, as set out in subsection 1(4) of the bill, be amended by striking out "Ministry of Municipal Affairs and Housing" in the third and fourth lines and substituting "Ministry of Agriculture, Food and Rural Affairs, Ministry of Environment and Energy, the Ministry of Municipal Affairs and Housing and the Ministry of Natural Resources."

I thought that perhaps some of the government members were concerned that virtually any ministry could be appealing to the Ontario Municipal Board or could have this kind of input rather than the one window, and the purpose of this amendment is to provide at least for those ministries the opportunity to be involved in the process independent of one another. There's still consultation that goes on in government, but when the matter cannot be resolved and ministries have a differing point of view, it is important I think that an independent body, such as the Ontario Municipal Board, be able to adjudicate as to which ministry is making the best case.

It's seldom going to happen, quite frankly, that you're going to see two ministries or three ministries before a body such as the OMB. The reason, as I say, I've limited it to this number of ministries is these are the relevant ministries. I know there are some who could probably add several other ministries if they wanted to, and I can understand the concern of the government of virtually any ministry being able to come in, if you're indeed trying to streamline the process. But I do believe that Agriculture and Food and Rural Affairs, Environment and Energy and Natural Resources are all ministries which have a direct interest in developments that might take place.

Again, at the risk of being a wee bit repetitive, I think in the long run the province, individual municipalities, developers or whoever might be liable will find that this is a far better process than if you simply have one ministry dealing with these matters.

My concern about the Ministry of Municipal Affairs and Housing alone, again, is that it's interested in building new developments, and that's fine. There have to be new developments take place. But that's their primary concern, and my view is that they will push aside other concerns when push comes to shove, and the view of the Ministry of Municipal Affairs and Housing will dominate and subservient to that will be the views of other ministries. We will pay a penalty. We've already paid many penalties in our society for this happening and we will pay the penalty in the future unless we allow this to happen. So I hope that members of the government and members of the New Democratic Party will support this amendment.

Ms Churley: I just want to speak briefly to this. I would support this amendment in view of the fact that my amendment just failed, which I think overall was more appropriate. I'll support it for the same reasons I mentioned when I spoke to my own amendment, great concerns about the Ministry of Municipal Affairs and Housing carrying the day when it comes to pushing forth development. There have been experiences in the past that I'm well aware of where ministers of Municipal Affairs only talked to particular people in the whole

process of new development, and that in itself is a problem.

I think at the very least, because this bill says in the title, although there's nothing in the bill to suggest that it's true, it does say that it's there to protect the environment as well, and if you're really serious about any aspect of that statement, that you would support at least this amendment because it does make sure that the ministers of Environment and Natural Resources and Ag and Food, which often have concerns, are given the opportunity to express those concerns. People will feel, I think, much more comfortable.

Nobody disagrees with streamlining; nobody. But because again there's no process or protocol in place that clarifies how these particular ministries that are concerned about natural resources and the environment would participate, then it's vital that there be something in this bill that makes it very clear that their voice will be heard and not only heard but will have an impact on the final decision, whether appeal is made or not.

1350

Mr Conway: I just want to follow up again. Let me say that I like the idea of streamlining. Theoretically, I like the idea of the one-window approach; let me say that again. My worry is on major issues. There will be a whole series of lower-tier matters that aren't going to be a problem. But my friend the member for Nepean will know; I wasn't involved with the hearing around the Palladium in Ottawa. There was an OMB hearing about a major development, a sports arena, out in a cornfield in West Carleton.

Mr Bill Murdoch (Grey-Owen Sound): Get that cleared up when you're in Ottawa.

Mr Conway: It would be interesting to go back and look at the submissions to the OMB before a minister of the crown. I can imagine that in that, for example, there was probably a huge fight between the development part of government and Agriculture.

Mr Baird: Between the Hamilton members and the Ottawa members.

Mr Conway: Whatever, but my point is, let's say we do this. I look at the members for Middlesex and Northumberland. They have had what I've not had, which is a good experience in public administration. I say to myself, "All right, if we go with the one-window approach here we're not going to, by this kind of a statutory decision, change the tensions between very significant competing interests."

The question I then have is, how are people going to behave? Since we all want a quicker, more streamlined, more efficient process, how are planners, public servants, whether they work for the city of London, the city of Nepean, the county of Grey—you're really asking me to bring it down to a very local level. I'm on even the smallest rural township. You're asking me to say: "You know, the fire department and the roads department are at odds on a subject. Well, we're just going to build one window, we're going to build one door and we're going to walk them through it."

If you've spend five minutes around the smallest, most rural township, you will know that if the roads department and the fire department are at odds significantly

over what they deem to be an important question, and some idiot from Queen's Park or Queen's University shows up and says, "I've got a cure for you; I'm going to build one window and one door, and after a certain time period I'm just going to walk these people from Durham through this door," they'll just look at you and laugh.

What I want to know is, how are they going to subvert me? Just because I build a window and put a time line there, do you think the boys from the fire department and the girls from the roads department are going to set their competing interests at the door? I think that's unlikely. My question is, and it's one that will only be decided by experience: So we build a window, so we put in time frames; on issues where there are fundamental clashes of interest, how are people going to subvert me, because subvert me they will? I guess that will be the question for a subsequent Legislature to decide.

One of the possibilities is, does this then turn the cabinet into a court of appeal that it does not want to be? I don't know. Water finds its own level. The fire department and the roads department will go someplace. I guess that's just a matter of public administration that we ought to think about. Just because you write the policy, build a window and write the time lines, it is a very naïve person who thinks that, gee whiz, in the best boy scout and girl guide fashion, the roads department and the fire department will set aside their fundamentally opposed views and just line up and follow some politician or bureaucrat down this happy highway of harmony. I don't think it's going to happen.

Mr Bisson: Let me try to come back to it this way in regard to the one-window approach. I think I'll repeat again what's been said here by both the official opposition and us as the New Democratic caucus: Nobody disagrees with the idea of trying to find ways to be able to make planning more efficient, and even moving to a one-window approach I think is not a bad idea.

There's some experience, Mr Hardeman, that you can probably turn to and look at in the Ministry of Northern Development and Mines. The mining community, especially junior mining operators back at the time of the Liberal regime and eventually with us in the New Democratic regime, said there were some real problems in being able to move work permits and get them approved in order to go work on mining claims up in northern Ontario. There were real problems, where the mining prospector or the exploration company would say, "Jeez, we want to go work on claim number whatever up by Pickle Lake or out by Porcupine," or wherever it might be, and they were running around from one ministry to the other trying to get all the permits and trying to get all of the information together to satisfy what the government wanted in order to be able to comply with the policies and regulations that we have at various ministries, from Environment, Natural Resources, Mines etc, so that we're able to safeguard the public.

Rightfully, I would say, the mining developers and exploration community said it was too onerous, that the process was too difficult to go through. So we as a government adopted—if I remember correctly, the Liberal Party supported us on this, and I'd have to go back and

check to see if you did, but I can't see why you would have opposed this—we said we would go to the one window and the Ministry of Mines would be the window that all explorationists come to when it comes to dealing with the government to do the work on a claim.

The difference, however, in our one window was that we said we were not going to subvert the role of the Ministry of Environment or subvert the role of the Ministry of Natural Resources or the role of the Ministry of Labour by taking away their ability to object to a particular project that might be going on somewhere in northern Ontario when it comes to mining exploration, because there are cases where we need to protect provincial interests.

Maybe the Ministry of Mines, in its zeal to find new development of ore bodies in northern Ontario—if we as a government would have said, "We're getting our one window to the point where never mind that we're going to be the coordinating body to get all the licences together and to help the explorationists to deal with other ministries, we will make the decision for the other ministries," I think rightfully the Minister of Environment, the Minister of Natural Resources and others would have been up in arms because it would have meant that we would have been in positions where exploration might have been happening in areas that quite frankly were not in keeping with provincial interests.

I would argue that if you as a ministry want to become that one window, it can be done, but I think it can be done only if you don't subvert the powers of the other ministries. We should have one place that we go to, such as what's supposed to happen with MMA now, where the municipalities and developers deal with it. Let MMA truly become the coordinating body for development in the province of Ontario and let it do what it was originally supposed to do, which it hasn't quite done as well as it would have liked to over the years: the ministry that deals with Natural Resources, with Environment and others in order to deal with provincial concerns.

If you take away the ability for the other ministry to object to that development, should MMA in its zeal want to push a particular project forward, you're really putting the provincial interests in jeopardy. I don't think that's what you want to do. I think you as a government want to do what we as a party and the New Democratic caucus and the Liberals want to do, which is to try to figure out ways to become more efficient. But God, don't cut off your nose to spite your face, because that's where you're going with this.

I know that in the end Al Leach and Ernie Hardeman are reasonable people. They want to do what's right. I'm sure you're not trying to do this with any kind of malice, but I think you're opening up a Pandora's box over the long term and that you're going to be in positions where it's not going to be the ministries that are going to be objecting to development the way you're doing it; people are going to take to the streets. You're going to revive, without even knowing it, the environmental movement, which over the last number of years has quieted down somewhat because governments have tried to respond effectively to their concerns about development and other issues. By doing what you're doing, you're basically

going to be forcing environmentalists and other people to go back to organizing against you guys to get some sanity back into the planning process.

I think for your own political interests you should back off this one. You should allow this particular motion, as put forward by the Liberal Party, to go forward. I'm sure that my colleague and I would have no problem supporting it. Think about what you're doing here: (a) It's going to cost you a whole bunch of money in the long run because you're going to have projects going forward that shouldn't go forward, that are not in the provincial interests in some cases; and (b) you're really going to be opening a Pandora's box for your own party to your own downfall. I think this is going to hurt you. I want to protect you. I think you're a nice guy and I'm sure that you want to hang on to power, even though I'm going to try to take it from you, but I think we need to give you a little bit of help here. Take our advice. Support the amendment by the Liberal Party and join with us New Democrats in doing what's right here.

Mr Bradley: I think you've convinced them.

1400

Mrs Fisher: I don't think we're that far apart, as I sit here and listen. I think that Mr Bisson has described very well how, with different aspects of ministries, they can come together, they can one-window shop, they can process and in the end it is for the good of everybody. On the other hand, Mr Conway made a point, not in the same words, that maybe you should crawl before you walk. We've done the crawling, so the example that you gave; I think maybe we're ready to walk and we're ready to test.

I don't think it's naïve to think that it should be tested, and as a government we're probably willing to take the responsibility to look at it, to work with it, to ensure that all ministries are a full participatory body before a decision is made. Where I fall off track here is where we think it's smart for one minister to take another minister to court at the expense of the taxpayer.

Through the course of the last number of years, every government has heard that red tape is killing and stifling the province of Ontario. We listen to that. We know by your comments, and I'm listening to both parties, that you're listening to that as well, that it is time to start streamlining, to try to be more effective, to try to represent the people, to try to allow things to happen in the province of Ontario, and I think in fairness to this government we're also trying to do that. I think there is every opportunity for every ministry to be represented during the process, and where it deviates a little bit from the presentation of both of those motions that have been put before us, ultimately we're willing to make a decision without it going to court with the cost of one ministry against another or whatever process and delay it might take to get us there. I continue to support the bill the way it's been presented.

Ms Churley: I could agree with Ms Fisher under other circumstances. The problem is that this bill, even though it has environmental protection somewhere in its title—

Mr Bradley: That's the only place.

Ms Churley: —that's the only place it is. There are some cute, nice little words from time to time, but this

bill is not about protecting the environment. It's about cost-effectiveness and efficient development, but what it means at this time is that the natural environment, the concern for the natural environment, is practically left out of this bill.

That indicates to me that this is not at all about streamlining; it just extends even more so the power of the Minister of Municipal Affairs and Housing to get quick and dirty and cheap, in some cases, urban sprawl all over the place again and that this makes it a lot easier for that minister to achieve that.

I fear under those circumstances that this is not about being efficient at all; it is not about cutting red tape. If it were, I'd be happy to support it. If there were more of a protocol in front of us, if we had a better idea of how this would work, then I might be willing to consider it. But under the circumstances, you're asking us to give a blank cheque here and I refuse to do that.

Mr Bisson: I'm going to come back. I think we might be moving in the right direction here, except that you stopped a little bit short, Ms Fisher.

Mr Murdoch: Severances.

Mr Bisson: Boy, this guy is really something. Where did you find him? I'm beginning to wonder sometimes.

We're all agreeing with the basis of what you want to do here. The basis is, you want to cut the red tape, that you want to make it easier for projects that are sound to move through the development process. We all agree. That's not the issue. The problem is that if you take away the ability for the other ministries to bring the proposals before the OMB, it's a little bit like telling citizens that they don't have the right to go to court if they think they've been done wrong. In a democracy there are certain tenets that you allow that to happen on a principle basis.

Let me show you what can work. We had another project in the city of Timmins. Dome mines wanted to build and has built what's called a superpit, which meant to say they had to move a highway, they actually had to go into wetlands, they had to cut down parts of the forests that were protected. There was a whole bunch of things they had to do to allow this particular project to go through that some would think would have been impossible to do.

But what we did as a government and what I did as a local member was to say, "Let's bring in, in this case, the Ministry of Northern Development and Mines, which is the one-window approach, and all of the other ministries that are involved in this project, put them around the table and have the Ministry of Northern Development and Mines be the"—we used to joke about it with their deputy minister at the time. We used to say we needed to have somebody at the Ministry of Northern Development and Mines who was like the Billy-Bob of Atlanta, which is basically when you go there, somebody can walk you through the process.

We took Ministry of Northern Development and Mines staff and made them responsible for working with the other ministry to find solutions to what were real concerns. How do you deal with the size of the tailings area that you need in a larger development, such as they had with the watersheds nearby that particular mine? How do

you deal with moving over the highway, the concerns that the Ministry of Transportation and the Ministry of Environment had? At the very beginning Placer Dome said, "Oh, my God, this is a humongous thing and other ministries will give us a hard time." We said: "Trust the process. If we can get everybody into the same room, working towards the same aims, we'll be able to satisfy each other in such a way that this project goes ahead, but in a way that's sound to provincial policies."

You know how long it took to get all of those people in a room once we got them in to make the decision? We went through that process in about three days. The Placer Dome mine afterwards—and I was going to say Harry Pike; Harry was his predecessor—Mr Perry, who was the manager of the mine, and people from Placer Dome out of Vancouver were amazed at how quickly that process went through.

And guess what? We followed every provincial policy doing that. No provincial policies were broken. We had the thing go through in record time. There had never been an approval process as quickly as what happened with Placer Dome. But we did it keeping in mind that yes, economic development's important but the importance of economic development cannot supersede the interest of provincial policies that deal with the environment.

I think you can do what you want by following what the Liberal amendment, which in this case is to say: Make the Ministry of Municipal Affairs the window that people go to. Give them the coordinating responsibility to work with other ministries to work out the problems. But that doesn't mean to say that you need to take away the power to appeal, because if the power of appeal is taken away from the other ministries, there is no reason why MMA would every try to work with those other ministries to find the solutions. Why would they? I think you're really setting up a bad precedent here and I would ask you to reconsider.

Mr Conway: Just quickly: I want to come back to my point. I understand the intent here. The intent is laudable. The question for me is then the test: Will it work? That's why I'd like to hear maybe from somebody like the member for Middlesex, perhaps even the member for Northumberland. As I say, theoretically it's a very good construct. You can't argue against this except if you think—and I always have to come back to examples. I'm a Bill Stewart. I'm a powerful Minister of Agriculture, a really powerful Minister of Agriculture, and this happens all the time. This process of course makes it very much more likely, and in an effort to streamline and to accelerate things, I'm not given a full opportunity; in fact, I may get no opportunity at all.

Now what I want to know is: How am I going to behave? What kind of a behaviour are we going to get? My limited experience is that, again, if I encountered a very aggressive—Claude Bennett comes to mind. I'm thinking of a former minister of the crown, very resourceful, very knowledgeable. I'll tell you, the opportunities that were out there for people who felt that they either didn't get an adequate opportunity or who lost a big fight to undermine the collective decision were quite interest-

ing and usually at remarkable variance from all the public administration and political science I was ever taught.

I come back to the main point. What you want to do here I think is entirely laudable. The question is, will it work and meet the objective that you have set for it? I just sit here and try to think, how will people behave in this environment? I'd be interested to know what the member for Middlesex—quite an excellent planner—how he thinks people might behave in a department, a branch of government if they felt that they did not get adequate opportunity. There will be cases, I guarantee it, where people with major interests are going to read about this on the front page of the London Free Press. That's the first they're going to know about it.

I used an example yesterday and I am not kidding, that famous siting of the would-be toxic waste site down in the Grand River basin near Cayuga. I can imagine what they must have thought at Environment and Agriculture the day they all read that. It may be a brave new world and it'll never happen again, but I just simply ask the proponents of this policy, have you got sufficient reason to believe, on the basis of any kind of related experience and knowledge of humankind, that people with very significant interests are actually going to behave in a way that's going to allow your tightened time lines and your hope for streamlining to actually work?

1410

The Chair: Any further comments? Seeing none, I'll put the question.

Mr Bisson: Recorded vote.

Ayes

Bisson, Bradley, Churley, Conway, Lalonde.

Nays

Baird, Carr, Fisher, Galt, Hardeman, Murdoch, Smith.

The Chair: I deem the motion to fail.

Are there any further amendments to section 1?

Mr Hardeman: I move that subsection 1(2) of the Planning Act, as set out in subsection 1(4) of the bill, be amended by striking out "45.1(12)" in the fifth line and substituting "45(12)".

This amendment is being put forward to deal with the amendment that will occur later on in the debate where we are proposing to return the appeal for minor variance to the OMB, and so it requires the removing of that section from this part of the bill.

Ms Churley: It sounds like it's quite technical. It's a problem, however, with all of the amendments before us, particularly from the government members. I understand that by and large they're technical and there are not a lot of amendments with a great deal of substance. However, we're going to need fairly good explanations as to the implications of those.

Now you say, Mr Hardeman, that this has to do with an amendment down the road, and since we haven't come to that yet, I'm having a little bit of trouble supporting this when I haven't been given the explanation for the amendment that it's referring to.

Mr Hardeman: It deals with the other process for the appeal from the committee of adjustment decision to

council if no member of council is on the committee, that if there's a member of council on the committee, they can no longer appeal to council because that would be double jeopardy for being heard by the same person. We are proposing in the amendment that will be coming forward to go back to the original design where all minor variances will be directly appealable to the Ontario Municipal Board. So there's no longer a need for reference in this section to that process within that definition later on. When we get to that section, it will be struck out and removed from the bill.

Ms Churley: Okay.

Mr Bradley: This is probably not procedurally correct to do, but with the indulgence of the Chair, would it be reasonable to ask perhaps, not that we officially deal with it, but that you explain in a little bit of detail what you're going to do down the line that calls for these technical amendments that look benign to me. I know you've made reference to it, but if the Chair would allow you to perhaps elaborate a bit on what you're going to do down the line, it'll help us with these amendments, to know why we're passing what seem to be benign amendments.

Mr Hardeman: It's quite simple. We are proposing to remove all other references of appeal other than minor variances will go back to being appealable to the Ontario Municipal Board, as they have been in Bill 163.

Mr Bradley: As simple as that then. This one here, I heard you mention double jeopardy.

Mr Hardeman: The proposal in Bill 20 was that there would be no longer appeal to the Ontario Municipal Board of minor variances. The appeal would be only to the council of the municipality, and in such areas where the council had appointed its own members on the committee of adjustment, there would be no appeal of minor variance.

Mr Bradley: That's right.

Mr Hardeman: It would also reference that if a municipality requested or wanted to do so, they could ask the OMB to hear the appeal on their behalf if they paid for it. But it was removing the direct appeal to the Ontario Municipal Board for all minor variances. We are proposing to take all that out and go back to a straight appeal to the Ontario Municipal Board.

Mr Bisson: Just so I can follow what's happening, you're striking out section 45.1 or 45? Which section are you striking out?

Mr Hardeman: No, we're striking out the section—

Mr Bisson: I understand what you're doing in this motion here at this point. What I'm asking is, if you're moving it from 45.1(12) to 45(12), it insinuates there will be no 45.1 left in the act, right?

Mr Hardeman: When we get to those sections, both 45 and 45.1 will be defeated. The government will be voting against those sections.

Mr Bisson: So 45 and 45.1 are gone.

Mr Hardeman: Yes. This is just a clarification to make sure that the definition, as it refers to in this section, or the authority in this section will not refer to those sections because they no longer will exist in the bill if those amendments are approved.

Mr Bisson: But you've a problem here. That's why I'm having a bit of a problem following you. You're

going to substitute 45.1 under subsection 1(2) for 45(12). Do you follow me? You're getting an explanation here. I think the researcher figures what I'm getting at here. Are you striking out 45 and 45.1? Or are you going to keep in place 45?

Mr Hardeman: We will be replacing the old section and it will be 45.

Mr Bisson: Gotcha.

Mr Hardeman: So the reference will have to be to that 45 section.

Mr Bisson: I just wanted to follow. Thank you.

The Chair: Any further comment?

All those in favour of the motion? All those contrary to the motion? The motion is successful.

Any further amendments to section 1?

Ms Churley: I have an amendment. I need unanimous consent for it to be considered. Could I tell you what this amendment is?

The Chair: Is this your 1.1, Ms Churley?

Ms Churley: Yes.

The Chair: Actually, we will vote on section 1 first.

Ms Churley: Oh, that's the way you do that. All right.

The Chair: Having said that, all those in favour of section 1, as amended? Contrary? Section 1 carries.

Ms Churley: I would like to ask for unanimous consent to consider the motion which I am putting forward. The motion is section 1.1 of the bill, clause 1.1(a.1) of the Planning Act.

I move that the bill be amended by adding the following section:

"1.1 Subsection 1.1 of the act, as enacted by the Statutes of Ontario, 1994, chapter 23, section 4, is amended by adding the following clause:

"(a.1) to ensure that, in land use planning, environmental protection is treated as being equal in importance to economic development."

The reason why I'm asking for unanimous consent to consider this motion today is that the—

Mr Bisson: Don't give the explanation.

Ms Churley: Pardon?

Mr Bisson: Just ask for unanimous consent.

Ms Churley: No, I want to give it, because they're not giving me unanimous consent.

Mr Bisson: Okay. Dummy.

Ms Churley: Dummy.

Mr Bisson: I admit it; I blew the strategy here.

Mr Murdoch: Where do you find these guys?

Mr Bisson: Exactly.

Ms Churley: I realize that the purposes section of the act is—

The Chair: Excuse me, Ms Churley. To discuss this you have to formally read the motion.

Ms Churley: I did, Mr Chair.

The Chair: Oh, I beg your pardon. Forgive me. Then I must ask if there is unanimous consent—

Ms Churley: I mean, you guys, from every side—

The Chair: There must be unanimous consent to allow debate on the addition of a new section. Is there unanimous consent? Agreed.

Ms Churley: Thank you very much. I appreciate very much your giving me the opportunity to discuss this with you. I'll read it again.

What I want added is the following clause, "to ensure that, in land use planning, environmental protection is treated as being equal in importance to economic development."

Mr Leach, the Minister of Municipal Affairs and Housing, at one time was heard to say in a meeting that he thought that Bill 163 leaned too far in favour of the environment and not enough in favour of economic development. He is the minister who is in charge of this bill, who will be in charge of development in the province of Ontario. He has stated already that he thought that it's not good to have something leaning too much in favour of the environment.

I know that time and time again we have heard in this committee from the committee members—and from developers, interestingly enough—that they now believe, that you now believe this bill is balanced and that our bill, Bill 163, leaned too far in favour of the environment. 1420

You have to bear in mind that the previous NDP government spent two years on the road consulting, one of the biggest consultations ever to take place in the province of Ontario. Not everybody agreed on either side of Bill 163, which suggests to me that there was a bit of a balance there. One of the things I've found out, having been in government, is that quite often you know you've achieved a bit of a balance when not anybody on either side is completely happy and everybody comes with some substantive amendments they'd like to see. Well, that certainly happened with Bill 163, but overall both sides felt that they got some of the things they could live with.

What bothers me about this particular bill is that it mentions "protect the environment" in the title, but the bill itself very clearly leans far more heavily to development—and that is short-term development—promotes urban sprawl, redefines the map for protecting our natural heritage. This act very clearly, in an extreme way, leans far, far more heavily to short-term economic benefits, short-term economic development.

I believe, at the very least—government members say over and over again that they believe there is a balance here in this bill, environmental protection is mentioned in the title. If the government is serious about real, long-term, sustainable economic development, then you have to look at the long-term cost of development. It has to be factored in. When you have bad development, paving over farm land, polluting water, causing other environmental damage—

Mr Bradley: Severances.

Ms Churley:—severances—yes, thank you—all over the place, there is going to be large economic cost down the road to the public. You might not see it for a while. You might get the money you want now, quick development, more people paying taxes, more urban sprawl. You won't have to worry about it right now because it might help; a little bit more money might come in to help you with your 30% tax cut. But I can guarantee you that taxpayers down the road, when maybe none of us sitting in this room today is going to be in this room, other governments and people, our children—we talk about protecting our children and you, the government, talk about the need to protect our children from deficits down

the road. What this bill does in its present form is ensure that our children and our grandchildren down the road will be paying dearly, both in environmental degradation and economically, for mistakes made because of all the glaring gaps in this bill in terms of protecting the environment.

So I think if the government—and I believe some members of the government do feel very strongly—not all, but some—and feel that in their opinion this bill is balancing economic development and the environment. I say it isn't, and I have the evidence of that, but if you feel secure that that's what this bill does, I do not see any problem whatsoever in inserting this particular clause, because all it does is put in writing clearly—I think it would give many environmentalists and cottagers and all of the people out there who care about the environment some comfort to know that you don't agree with the statements made by the Minister of Municipal Affairs and Housing that economics come over environment, have more precedence over the environment. All it does is actually say what you've been saying anyway, that there should be balance, that the environment and economic development should be balanced equally. I think that's very clear and concise and is not ambiguous. It's very clear.

Mr Bradley: I will speak in favour of the amendment that has been proposed as an addition to the bill because it certainly is in keeping with the title of the bill. If we wanted the title to truly be reflected in the contents of the bill—the title reads "An Act to promote economic growth and protect the environment," and then it goes on to mention other things—but if it were truly to do that, it would equally give weight to protecting the environment and promoting economic growth at the same time. I think that's what the member is endeavouring to do.

One of the problems with ignoring the environment or making the environment subservient to economic growth is that you can't undo the mistakes that you make in the environment. Once you pave the farm land, you don't have the farm land any more. You can't take up the pavement and begin farming again. If you do, it's an extremely difficult process to go through.

If I look at the Niagara Peninsula as an example—and it wasn't necessarily members who are sitting here today, by any means—some of the development that has taken place is rather unwise, and I think it's unwise because there wasn't equal consideration given to the environment and economic growth.

What I mentioned Monday when we were in Hamilton was that municipalities now, because the provincial government is cutting back funding—and I'm not getting in the middle of that fight; I'm just stating it as a fact. Because the provincial government is cutting back transfers or funding to the municipal level of government, many of those politicians at the local level are going to be desperate to get some kind of development taking place, some kind of economic growth taking place, and they would be more inclined than normally so to permit developments that don't fully take into account the environmental consequences that they should. By placing this in the bill, there's a signal given by the government that the environment and economic growth are about equal in terms of the thrust of this bill.

I don't think all the members of the government—there are some members who have different views, and I respect all the views of members of the House. I don't think anyone holds a right view and someone else a wrong view; I respect the points of view of the government. But I think it would alleviate, at least to a little bit of an extent, the concerns of those who have expressed concerns about this bill if this amendment were incorporated in it, would be stated clearly in it.

One again, I just look with longing at some of the areas of the province that offered a lot of attraction to many people, and this was over three governments, much of it begun in the Progressive Conservative governments of Premiers Frost and Robarts and Davis. When I see some of the proposals that I know people have in their minds to bring forward and how easily those proposals can proceed unless the environment is taken into equal consideration with economic growth, I become very concerned about the provisions of this bill.

So I think it's acceptable to put this in the bill. It, as I say, gives some comfort to some individuals, and it does live up to the title of the bill if you're prepared to agree to this amendment. I would urge the government members to join with some of the opposition members, whoever choose to do so, in supporting this particular amendment, which makes eminent good sense.

Mr Bisson: Some of what I want to say has been said and I won't touch on that too much, other than to say that I hear the mantra of the government time and time again about how we're trying to protect our children and make sure that we don't throw them into debt and everything else for future generations. Well, I think the argument, if the government buys it on economic issues, should be an argument that they buy on environmental issues. I think you all believe, as we do in opposition, that we need to make sure that we are the stewards of our environment and make sure that the environment is protected for future generations. I would just echo what was said by my colleague Marilyn Churley and by my colleague from the Liberal Party.

The other thing I would say to that particular argument is, the title of your act, as Mr Bradley said, is supposedly the whole idea of what this is all about. You're saying "An Act to promote economic growth and protect the environment...." Well, if you really mean what's in the title of the bill, you should support this particular motion. I don't see a problem.

If you don't vote in support of the motion as said here—the motion basically says, "to ensure that, in land use planning, environmental protection is treated as being equal in importance to economic development," if you vote against that motion, then you don't support the title of your bill. It's real simple. If you vote in support of this motion, then you're in agreement with what is in the title of the bill. So I'm sure that you are going to support this motion because it is exactly what you're saying in the title of the bill. I see this as a motion that supports what the government is doing, and I'm sure in your wisdom you will support that.

1430

But just to give you a bit of evidence in order to be able to make sure that it's not just myself from the New

Democratic Party saying that, I would add a couple of things. There was a prominent Tory person who was in this assembly, not as an elected member but as the Lieutenant Governor, one named Lincoln Alexander, back on June 2, 1991. At that time Mr Alexander, in his wisdom, signed a document put forward by the government that put in place the work that Mr Sewell did on his commission. I just want to read two parts of what was in that order in council, dated June 6, 1991:

"The government of Ontario believes that planning and development processes should recognize and support environmental, agricultural and other public interests." I think if I heard Mrs Fisher a little while ago say anything, she was saying she was in agreement with that whole concept, and I've heard other Tory members say that as well.

It goes on to say, "protection of the public interest in planning and land development and support of provincial priorities, including environmental and agricultural considerations...." So if one Lincoln Alexander, a prominent Conservative member of the federal House who eventually became the Lieutenant Governor for this assembly, signed this document, as he did, in support of the work that our government was doing through the commission headed by Mr Sewell, I'm sure the present Conservatives of this assembly will support that particular notion.

I would say, in this day and age when we recognize finally that we need to be protective of the environment and we need to make sure that we are the stewards of the environment in the future, that government members will vote in support of this motion because it supports what's in the title of the act. If you vote against it, my friends, it means to say you don't believe what's in the title of the act.

Mr Hardeman: First of all, I want to say I think that the act already fulfils the mandate of the title of the act. I think it is quite clear that the act does protect the environment. We will not be supporting the amendment. I think it's partly to do with the "ambiguity" of the—I can't say the word quite right, Mr Chair, but being equal. It becomes very difficult and subjective to decide in the process what is equal, and when they are equal, how do you deal with the situation?

I think as you read the amendment and then you read clause (a) of that same part of the bill, it is "to promote sustainable economic development in a healthy natural environment within the policy and by the means provided under this act." We believe that is more prescriptive to development than equality; that is to say, that development shall take place in an environmentally sound way, as opposed to treating them both equal and then choosing the lesser of the two equals. I think that the amendment does not add to the bill, and for that reason we will not be supporting it.

Mr Bisson: I am amazed, because it quite frankly flies in the face of what you're trying to do in the bill. You know as well as I do, Parliamentary Assistant, that if I was to go before any tribunal and I was to argue that the judge has to rule in my favour based on a title of a bill, how far do you think that will get me in my argument with that judge? The judge can't rule on the title of a bill.

The title is simply that; it's a title. What the judge rules on is what the content of the law is. That's all that the tribunal can rule on in regard to the actual law.

What normally happens in a bill—and again I'd be interested to hear from my friend from the Liberal opposition, who was once the Minister of the Environment, who I'm sure supports this motion—if you have a bill and the purpose of the bill is to protect the environment and it will allow planning to go forward in a streamlined way, you would normally put that in the purpose clause of the bill to give it some teeth. That's normally what happens. Any bill that came through this House and passed under the Liberal regime or our regime, you would put your intent of what you wanted to do into the purpose clause.

In this case, it ain't there. The question of protecting the environment is not in the purpose clause. I took it that it was just an oversight, that the government figured that because you said it in the title, it must be so. Well, just because you say it, that doesn't mean it's so. It has to be in the bill.

Again, I would say that if you believe in what you say in your title, you have to support this motion, because what we're trying to put into the bill is what you're saying in the title. You can't argue that, because it's in the title, it's going to make it so, because you know as well as I do, a tribunal will not support the title of the bill. It will only rule on what's in the interior of the bill, and if you don't say inside the bill that the environment is an equal interest to development, it means quite the opposite.

The Chair: Are there comments? Seeing none, I put the question.

Mr Bisson: Recorded vote.

Ayes

Bisson, Bradley, Churley, Lalonde.

Nays

Baird, Carr, Fisher, Galt, Hardeman, Murdoch, Smith.

The Chair: I deem the motion to fail.

Are there any comments, suggestions or amendments to section 2?

Ms Churley: Before we continue, I'd like to ask you, Mr Chair, to bear with us. We just received some of these motions recently and we're busy following and making sure we're all in the same place at the same time, so just give us a moment here.

The Chair: I don't believe there are any amendments, none that I'm in receipt of. Seeing no discussion, all those in favour of section 2? Those contrary? Section carried.

Any amendments, comments or suggestions for section 3?

Mr Bisson: I move that subsections 3(5) and (6) of the Planning Act, as set out in section 3 of the bill, be struck out and the following substituted:

"Decisions consistent with policy statements

"(5) A decision of the council of a municipality, local board, planning board, the minister and the municipal board under this act and such decisions under any other

act as may be prescribed shall be consistent with policy statements issued under subsection (1).

"Advice consistent with policy statements

"(6) With respect to any planning matter under this act, the comments, submissions or advice provided by a minister or a ministry, board, commission or agency of the government or Ontario Hydro shall be consistent with policy statements issued under subsection (1)."

It's fairly clear that this gets into the whole question of our policy statements, the issue of "shall have regard to" versus "consistent with." If we heard anything through this whole process of committee—submissions from outside of Toronto where people came and submitted to this committee, and again here in Toronto—we heard about this issue. Even when we spoke to those who came in and said, "We support the government on this particular issue and we think it's great," when you pushed them on it, they started recognizing there was a weakness in that argument. Everybody agreed that if municipalities are to get the power to do local planning, they have to have clear rules at the provincial levels by which they guide themselves to do the work of planning at the local level.

For the government to say that the provincial policies will only have to be regarded when making planning decisions versus being "consistent with" is really a bit of a funny argument. Why would you have policies in the first place? You have policies for the reason that they are important to the province, are an interest of the province. For the government to say we're going to move back to the bad old days, basically that a municipal council or the Ministry of Municipal Affairs don't have to apply some litmus test and actually look at an issue from the perspective of those policies, I think is really opening up for trouble. I would just say—I'm sure other members have a lot to say on it—that government members should really look at this one again.

If we're going to give the power to the municipalities to do planning, you've got to give them clear rules and they've got to be consistent with the rules. Make the policies clear; that's what you've got to do. If your argument is that the policies are unclear—I've heard that from Conservative members—let's work on that. Let's make them clear. You will get the support of this party, the New Democratic Party, and I'm sure you will get the support of the Liberal Party on that, if you're prepared to sit down and work on policies and make them clear to protect provincial interests and then make it very clear to municipalities that they must be consistent with and make the planners do their planning to be consistent with those policies.

1440

Mr Bradley: One of the problems I have with the bill and the timing of the bill that relates to this particular motion is that we will not see the final copy, the finalized form, of the provincial policy statements until such time as the government would like to see the bill passed. I think that's putting the cart before the horse, because if we want to objectively decide whether we're voting for or against this bill as individuals in the Legislature or as parties, we would like to know what the policy statements say. Government, I don't think, is going to want to wait

for that, but that is one of the reasons people are looking for "consistent with."

There was an excellent presentation made by the Christian Farmers Federation of Ontario. I listened carefully because it was some real wisdom brought to the process. They mentioned why "be consistent with" in their view—and it's a view I personally agree with; perhaps not all my colleagues, but I personally agree. They made a compelling case for "be consistent with."

Looking at both sides, the pro-development side and the anti-development side, they said: "The biggest reason for the slowness of the planning process in the past was the existence of the phrase 'must have regard to' in the Planning Act. It leads all participants to try to second-guess what a provincial policy or an official plan clause or a zoning bylaw statement means. No one feels bound to accept as a precedent previous interpretations of the language in planning documents. This phrase, more than anything else, led to debate after debate." They've had several interventions as an organization in these debates, so I think they would know that.

They went on to say, "Municipalities become beholden to professional planners and their interpretations of the language in planning documents, rather than citizens being able to understand the plain language of policies and bylaws." Now, I think plain language falls more into line with "be consistent with."

"Words that set a lower standard of compliance with the plain language of the provincial policy statement—thankfully, the draft is written in fairly plain language—will be great make-work projects for lawyers and planners, at the expense of all citizens." I don't want to see planners and lawyers unemployed; they have something to do out there, and that's nice to see. But they do make this statement that they will dominate the process.

"The underlying purpose of the provincial policy statement is to help municipalities get the planning job done. If you make the context vague, the policies will not help. A vague context will require extensive implementation guidelines for the provincial policy statement. This was the biggest mistake of the previous administration: the creation of a four-inch-thick implementation guideline. We favour keeping the policies clear and precise and letting the municipal official plans be the guidelines to the interpretation of the provincial policies. There's not much sense in putting all this effort into creating provincial policies and then not making serious use of them."

I didn't know which side they would come down on in this issue, and they really came down on the side of "be consistent with." I understand the problems. Listen, I have been in the Legislature long enough to know it's maybe easier for somebody in an urban municipality to say that than a rural municipality; I understand that. And not all the province is the same; I understand that as well. But I really believe that when you develop good policy statements, we want to see it consistently applied across the province so one part of the province isn't capitulating to developers at the expense of another. We have a lot of this happen in the United States particularly; they can even offer incentives, tax incentives and so on, from one municipality to another trying to compete with one another.

So I personally—and I state that personally as opposed to necessarily speaking for my party—come down on the side of "be consistent with" as opposed to "must have regard to." I think the Christian Farmers were probably the association that best exemplified that for me, in terms of the arguments they made for why it was necessary. I thought their brief was very good. There were other briefs that mentioned it as well, and there were, in fairness, other opinions put forward. The development industry, at least the ones I heard, preferred "have regard to." I don't know if all of them would, but at least the ones I heard.

I don't pretend it's not difficult to make that decision. I would prefer to come down with "be consistent with," however.

Mr Hardeman: The government will not be supporting the amendment. It's interesting to note that Mr Bradley mentioned the presentation made by the Christian Farmers, and indeed they were supportive of "consistent with." I have great respect for the opinion of the Christian Farmers and the work they do towards the stewardship of our land, but I think we should also have on record that the same day we had a presentation from the Federation of Agriculture, who, incidentally, also have the same concerns as the stewards of our land. In direction, they tend to represent a wider area of the province generally than the Christian Farmers, and I think they realize the diversity of farming in Ontario and the wishes or needs of the farming community. That's why I believe they came down strongly on the side of "shall have regard for."

It's also important to note that the government agrees that the way to guide good development is through good, strong policy statements. Having said that, when those statements are prepared and approved, however, it's important for local autonomy to let the local municipalities, that know their community, know what's required and I think know what's best for their community, be allowed to make the decisions on planning matters, provided they protect the provincial interests outlined in the policy statements. I think it's inappropriate to have the policy statements to protect the provincial interest and then tell everyone, "You shall achieve that goal the same way; you shall be consistent with that policy," recognizing that in different areas they will have different directions and different needs.

I can take one example at home, where we have a large tract of land with much gravel underneath it. To preserve that gravel under the aggregates policy statement requires the moving of that 400 acres to 400 acres of prime agricultural land to accommodate growth. Someone is going to have to make those priority decisions to weigh the one against the other, and I believe the local municipalities are best equipped to do that. We will not be supporting this amendment.

Ms Churley: I couldn't agree with my colleague Jim Bradley more in terms of the guideline. I believe you mentioned the NDP guidelines. Was it you who mentioned that?

Mr Bradley: I think they did, the Christian Farmers.

Ms Churley: Right, and that is quite correct. The guidelines were a huge mistake. Many people confused

and still do confuse those guidelines with the policy directions. Boy, I admit I didn't like them. It seemed to me that part of what happened in the development of those guidelines was that there were a lot of things that a lot of people wanted that got left out of the actual act and the policy statement, and all of it somehow ended up in the guidelines. There is no doubt in my mind that had the NDP stayed in government, those guidelines would have been dealt with swiftly, because they did present a real problem and unfortunately, I believe, led to the demise perhaps of the "be consistent with."

If people were watching this on TV—which they're not; there's not even any press here—people would think we were mad, having such long discussions about what sounds almost like semantics, around "shall have regard for" or "be consistent with." But when you understand the context of what we're talking about, the implications between one and the other are quite massive. I agree that during these committee hearings there were really split opinions, and people feel very strongly—no grey areas with this one. People feel very strongly one way or the other.

1450
I found the division interesting. The environmentalists, the community groups, the ordinary people, the few who did come, trying to protect natural areas where they live all came down on the side of staying with the "consistent with," and all the developers, who incidentally love this bill—which is why I have some problems. They love it too much, don't have enough problems with it, for it to be balanced. They didn't ask for very much to be changed.

Mr Bradley: They'll be showing their gratitude with their donations.

Ms Churley: With their donations, that's right. Coming back to "shall be consistent with," my fear is the lack of balance in this bill and that people are so split. This rings alarm bells for me, because people feel so strongly about it. God knows, when we were in government we went through this debate as well and decided to come down on the side of "shall be consistent with," and here are some of the reasons.

We did give under Bill 163—I asked some of the municipalities and developers who came in, and they agreed with me—more autonomy to the municipalities so they didn't have to come running to the government every time they wanted to change an official plan or all the aspects. They had more autonomy. This is the explanation for this: The tradeoff here was that in giving them more autonomy—and in your bill they have even more—therefore there would have to be broad public interest policy. They would have to do more than have regard for, pick it up, take a look and say, "Oh, that's nice, we like that," and then toss it aside, which is what is going to happen in some municipalities.

The CELA, the Canadian Environmental Law Association, brief mentions some of the very bad planning decisions that have been made. Just a few examples: One in Sydenham Mills in Grey county, which I know Mr Murdoch knows very well about; Keppel township in Grey county. There are numerous examples of very bad planning decisions being made by some municipalities.

We have to face it. They're not necessarily bad people just out to care about development and making money. They sometimes don't have the means, the staff, the money, the tax base, and as the province is pulling out more and more in terms of transfer payments, cutting staff in ministries which could be helpful to them in their planning exercises, when the province is pulling out almost completely, you're leaving municipalities in many cases with no resources to even do proper planning.

There are going to be developers out there champing at the bit with this new act, looking at presenting new development which would bring more money to the municipality. They're going to be under a lot of pressure to toss aside any provincial policy that exists. I have to tell you, like my colleague Mr Bradley I have concerns that we don't have that in front of us yet, although I understand you're consulting about that. I have no faith that this policy is going to be all that good anyway, but on the other hand, if they only have to have regard for it, they can look at it, read it and say: "It doesn't fit Grey county. We'll just ignore that now. We've looked at it, we've had regard for it," toss it out the window and just go right ahead with very bad planning. That is what's going to happen. I can guarantee it.

I know I'm not going to change your minds today, but I want you to know how strongly I feel about this, and I want you to know that you're going to pay for this. You don't have to worry about it now, but I can guarantee you that what the developers are so happy about—they think now they can go out with minimum red tape, minimum regulation all over the place and just build, develop like crazy, pave over farm land. There are going to be bad environmental decisions made. There's going to be contaminated water again. There are going to be all kinds of problems, and people are going to pay dearly for it.

The issue here is to look at having broad policy statements that are flexible enough—and that can be done—but written in such a way that municipalities can look at it and determine how they can plan within that context within their municipality. They need that assistance. I know AMO and many municipalities said they didn't like it. I know that. Many people—

Mr Bradley: I like AMO. Be careful.

Ms Churley: You love AMO, do you, Mr Bradley? Don't get me going on AMO today, okay? You're getting me off track. That's for another time.

There are some, including Mr Sewell—and no matter what you may think about Mr Sewell, no matter what you may think about Bill 163, no matter what you may think about the NDP, Mr Sewell was out there for two years talking to people across this province. He did a comprehensive study of the Planning Act in Ontario—the problems, the needs—and he came back with recommendations. He feels very strongly about this. Does that not count for something? It's as though Mr Sewell came in, and everybody enjoyed it, and he gave a nice little talk. He told you what he heard out there across the province and why at the end of the day this was recommended. It was recommended because we know what's going to happen.

Mr Sewell and others made it clear—and I know there are arguments, but I believe you're now going to have protracted site-specific battles because it's not clear. That goes against the grain of what you're talking about. It's going to increase costs, it's going to increase confusion, it's going to be more ambiguous.

Mr Sewell and I believe CELA and others put very clearly what will happen as a result of this. You're going to have, because of the uncertainty, a no-win situation. If a municipality says yes to some developer and the environmentalists or surrounding community don't like it, they're going to appeal to the OMB. On the other hand, if they say no because they're concerned about the environmental aspects, the developer is going to appeal it.

It seems politically popular now with the Conservative government base of voters out there, including AMO and the developers, that this makes sense. But the irony is that it isn't going to work. You can mark my words on that, and the day is going to come where, unfortunately, I will be able to say, "I told you so." I'm not going to enjoy it, although usually it's fun coming back and saying, "I told you so." I won't enjoy it, because I don't enjoy the thought that there are going to be massive environmental cleanups and costs to my kids and my grandkids down the road. I don't enjoy the fact that there are going to be protracted and difficult hearings and more and more community fights over specific sites.

I know you've already made up your minds about this. I know you've listened to the other side of the argument—

Mr Bradley: Bill's changing his vote. Don't worry.

Ms Churley: Yes, Bill Murdoch wants to get Grey county in order. No more chance for the province to declare a provincial interest, however, so all the more reason they need good, strong provincial policies.

This is one I'm speaking at some length about because in many ways it's at the core of the importance of this bill. The implications are going to be so severe by going this route. The argument I hear time and time again—Ms Fisher and others keep saying about municipalities: "They're good guys. They're going to do the right thing. They know their area best. They don't want the big, bad province stepping in and telling them what to do." I've already talked about the fact that in some cases, yes, there are some bad guys out there—let's all face it—on municipal councils. In most cases, though, it's a matter, as I said, of not having the proper resources, not having the ability to do proper planning, a lot of pressures in smaller communities to get more development in and bad decisions made. I don't think anybody is saying that municipalities can't make the best decisions for their own areas, but if we don't have some broad policies to at least protect certain aspects of our natural heritage, we're going to have really serious problems. I really regret this government is not being brave enough to say no to AMO and no to the developers on this one and say, "You're going to do the right thing for the future of our province."

Have I changed anybody's mind?

Mr Bradley: Yes.

Ms Churley: You mean you're voting the other way?

Mr Bradley: You changed Bill Murdoch's mind.
1500

Mr Conway: I'd like to weigh in, in a way that may not satisfy the previous speaker. I think Ms Churley is right in—

Interjection.

Mr Conway: No, nor my friend Mr Bradley, and he won't be surprised at some of what I have to say. What I have to say is largely the perspective of someone who represents the hinterland, where we are always acted upon by the imperial authorities represented by people who live in Riverdale and St Catharines.

Ms Churley: Now, now.

Mr Conway: Just hear me out. But I agree with Marilyn that this is a core issue. If you've listened to this debate—and I've only listened to it intermittently as a visitor to the committee—this is a key issue that has focused a lot of the energy in the Bill 20 hearings.

I will say this to some new members. Whether they know it or not, they probably heard one or two of the best speeches I've heard in over 20 years in the Legislature by the former Premier Mr Rae, who in the last couple of months gave marvellous valedictions that speak to his long experience in public life, but particularly how his experience in government changed his views. If you didn't hear either of the speeches, I would recommend that everyone go and read them, because I think they're masterpieces.

One of the key elements of Mr Rae's departing text was that circumstance is very important. Bob Rae began public life 20 years ago as a pretty eloquent, thoroughgoing theoretician, and no one can debate his intellectualism or his good intent. But I found fascinating what he had to say as he took his leave, particularly in light of five years in government. He was prepared to admit that the actual business of government has led him to amend some of his earlier thinking, because circumstance really did alter some of his core thinking.

Mr Bradley: He even takes donations from the corporate sector.

Mr Conway: Mr Bradley, I don't think that's fair.

With some reservations, I want to support what the government is doing here. I come down on the side of "have regard to" as opposed to "shall be consistent with," and I want to take a few minutes to speak to that.

The parliamentary secretary draws us to the OFA brief. I just happened to note that the Middlesex Federation of Agriculture told us yesterday that they think "have regard to" is an insufficient protection. I think that's a good example of just how divided even that constituency is, and I suspect if we canvassed federations around the province we might find the umbrella position is not a unanimous one, and that would surprise no one.

The other thing I should add at the outset—and I'm not going to be too, too long on this—is that I suspect at the end of the day what we would end up with, with "have regard to" and "shall be consistent with" in terms of its practical application, won't be as great as you might imagine, and let me say why. If, in a province as large and as diverse as Ontario, you are going to govern and you're going to have a planning process that says local planning shall be consistent with provincial dictates,

believe me, the only way you're going to make that work is that you're going to have to have policy statements that read like the Delphic oracle. They can mean everything or they can mean nothing. But you're going to have to allow a great deal of interpretation and elasticity at the bottom end by virtue of the kind of language you incorporate in the policy statements.

On the other hand, I think you are going to have a situation where if you provide, I hope—and this is why I say with some reservation. I know some of my colleagues, perhaps even one from St Catharines, aren't as optimistic as I'm going to be about the decision-making that might take place at the local and regional levels. I am hopeful. I say this to those of you particularly who've just recently served on local council. I just have to believe that everybody has figured this out, that this is a new world, and if you burn your ass, you are going to get to sit on the blisters. Pardon the inelegance of that; I should take that back. If you burn your posterior, we are going to—posterior; God, I can't even say this. If you are going to burn your posterior, we are, as provincial legislators, going to give you a joyful opportunity to sit on the blisters. We are not going to sit here, as I've sat here for decades, watching people who went headlong into a disaster, saying: "Oh, my, my, isn't that all terrible? Give me a million bucks to clean it up."

I'm for local decision-making, believe you me, but I'm telling you, since I'm not in government, I'm not going to be the one carrying the bad news. There are going to be lots of good government members and there are going to be very, very competent ministers who are going to stare these supplicants in the eye and say, "Oh, we told you so, and now you're going to go back to Zorra or southwest Oxford, you name it, and you're going to call the public meeting and you're going to tell these people their share of the cleanup bill is \$2,064." I'm sure that all of my friends on the treasury bench know that.

The problem I have with the Bill 163 proposition, I say to my friend from Riverdale, is simply this—and I don't for a moment dispute the good intentions of the government. Seriously. Out in Renfrew, even before Bill 163, you'd sit at a meeting and you'd be with a lot of good people saying: "Who wrote this? Who wrote this directive?" In my county, I might add, 50% of the land base is the crown, and the most interesting and enjoyable experience I've had is watching the crown basically opt out of or just walk away from rules it sets for everybody else, usually on the grounds of: "Who could be expected to live with this? Not us. Not Her Majesty. So we're not playing by these rules. But by the way, we expect you will." I don't think, by the way, that attitude is going to change one bit in the new order. I can't wait for Her Majesty, in more straitened circumstances now, living with some of this policy out in the upper Ottawa Valley. I can't wait.

We sit here, I say to my friend from Riverdale, with Bill 163 and the policy statements—there wasn't one; there were seven—and if you took those policy statements—and any good bureaucrat could—you could stop everything and anything. If you wanted, you could virtually freeze the whole bloody works. Or more likely, whoever wrote policy statement C had never talked to the

person who'd written policy statement D, because of course one was about natural heritage—that was the cultural glitterati—and the other one was about the environment, and of course ne'er the twain shall meet. This is why at one level I'm really attracted to the one-window approach and that's why I can't wait to see what happens.

Ms Churley: You're such a Liberal.

Mr Conway: Listen, I may be no more Liberal than Bob Rae. The problem that central governments have these days is that we are seen to be illegitimate in the actual administration of well-intended public policy, because (a) you either can't make it work, you simply can't make it work at all, or (b) it's just rife with unintended consequences.

I see the other day they finally abandoned Mirabel. I can tell you, Mirabel airport was not the province of local planning. That was a bunch of God knows what kind of planners located in a national government. What a disaster; what an absolute disaster. We had central planners who were going to do the same at Pickering, and we marched out and we did all kinds of wondrous, totally ridiculous—in retrospect. But that wasn't local planning; that was the province itself.

My point is simply that in this fundamental division of opinion I come down on the side of "have regard to," because I think in a province as large as this there has to be sufficient flexibility and sufficient—what's the word I want?

1510

Mr Bisson: You guys are split on this one.

Mr Conway: Well, we might be split. I've got to tell you, I suspect there are a lot of New Democrats who don't disagree with me. I'd like to get my old friend Elmer Buchanan in here.

Ms Churley: Elmer did the right thing.

Mr Baird: Where would you find a lot of New Democrats anyway?

Mr Conway: There are a lot of New Democrats around, and I think it is an unwise thing for people who have won a major government win to imagine that they're not around.

Ms Churley: That's right, baby.

Mr Conway: I think it very unwise.

Mr Bisson: You guys weren't around in 1990, remember?

Mr Conway: The other day—and I think probably some of you thought I was joking—I asked that excellent presenter we had from Wentworth, Ms Redish, if she'd ever read Burmese Days. The point of Burmese Days, if you haven't read it, is that in the British imperial service you had a fellow in Burma trying to administer policy that must be consistent with the centre of empire, and it was completely ridiculous. Did any of you see the film Breaker Morant? What do you do when you go to war and you—

Interjection.

Mr Conway: Well, I'm telling you, if you go to war and you're supposed to play by the Marquis of Queensbury rules and your opponent doesn't, what do you do? These are analogies that I know perhaps don't rest very comfortably with some, but this is the difference of

opinion that we've had. I'm under no illusions about some local government. When I was a graduate student at Queen's University, my best friend's father was judicially inquiring into the affairs of someone who was soon to be one of my colleagues, the famous inquiry into Kingston township, 1974. Unbelievable stuff.

Mr Bradley: J. Earl McEwen?

Mr Conway: J. Earl McEwen by name. He's been Liberal, Tory and probably NDP, so we've all got a piece of him.

The late Merle Dickerson was mayor of North Bay, many times elected and re-elected after he'd been convicted of some very interesting things. Sometimes people locally re-elect people who apparently do some very bad things.

I'm quite prepared to take my chances with local folks if we as a province provide, through this kind of framework legislation, sufficient opportunity for input, sufficient opportunity for appeal. I simply say that, with some reservation, I'm going to support the government on the "have regard to" and therefore not support "shall be consistent with," on the assumption that the government of Ontario and its agencies and local governments are going to take their responsibility more seriously, if for no other reason than there will not be money around to pay for the cleanups that Marilyn Churley and others are quite right to point to.

Mr Bisson: This particular motion is where the rubber meets the road, isn't it? It comes down to a basic belief, when it comes to land use planning, if we believe that we should follow the set of rules as set out in the province by the seven policies that are in place or we just have regard to them. I would say to the government members simply this—and let's propose a couple of scenarios here—if the federal government had said to the provinces back in the 1960s, when the Canada Health Act was put in place, "We're going to put a Canada Health Act in place that says, 'Here are some principles by which we're going to run our health care system.' We're not telling you you have to be consistent with these laws, we're just saying you have to regard them," what do you think would have happened in each province across the country? You would have had quite different standards from one province to the other. I would say that even within certain provinces like Ontario, you could have had different standards apply to different people depending on the point of the geography that they happened to be situated in. The federal government recognized, rightfully so at the time, under the Liberal regime of the day, that you had to have a law that basically sets out what the rules are and what it is that you can do and what it is that you can't do under that particular act, and if you don't do what you're supposed to do, you will be penalized in some way, either by a judicial process or by withholding transfer dollars. That's what they did under the Canada Health Act.

The province has a number of acts, one of them being the Highway Traffic Act. Do we say in the Highway Traffic Act that you have to have regard to what the rules are when it comes to driving down a highway? The law is pretty clear. It says there are speed limits that you have to follow, there are rules of the road that you have to

follow, and if you break them, you get fined. There's a reason that we do that. If we told people they only had to have regard to those laws, it would leave a lot of flexibility for the police at the municipal and the provincial level to levy fines, depending on how that particular police officer, he or she, feels about the issue and how they feel about the person they happen to have pulled over to the side of the road one snowy evening.

The point is that no, the province of Ontario says that you have to have a law that people have to be consistent with, that you have to follow, that has to be enforced. Why? Because if you don't do that, you're going to have a hodgepodge of examples about how different people do different things and about how, in the end, you may have a higher degree of protection in one part of the province where you may have quite the opposite in the other.

Again, do we say under the Environmental Protection Act that you have to have regard to what's in the act? I've dealt with the Environmental Protection Act on a number of occasions up in my constituency, in Cochrane South, dealing with mining, and it was quite clear. The government of the day, the Liberal government of David Peterson, when it made changes to the Environmental Protection Act, said: "No, you've got to be consistent with it. Here are some rules by which we're going to operate when it comes to the province of Ontario and how it deals with the environment."

The then Minister of the Environment, Mr Bradley, didn't go to cabinet and say: "We're going to amend this act in order to make it more development-friendly. We're going to amend the act in order to be able to say you only have to have regard to this when you're dealing with planning of a new development somewhere in Ontario, be it a new mine or a new plant or whatever it might be." They didn't say you have to have regard to it; they said you have to follow the law.

The province, under the leadership of David Peterson at the time and the then minister, Jim Bradley—and I wish Jim was here, to hear his views on this, because I'm sure he has quite a different view of this than his friend from Renfrew North—said that no, the act was put in place and you had to be consistent. What happened was that the act eventually was amended, by our government, in those areas that there were problems with. I recognize there is no government out there that's going to pass a bill that's going to get it 100% right. The Liberals, when they did amendments to the Environmental Protection Act, had a few problems in the way they approached it.

They cast a net in order to deal with the Hagersville tire fire. The net was cast a little bit too far and it did impede, in certain cases, development. The industry of the day, mainly mining in my case, because that's the industry of the people I represent by majority, came to me and said: "Listen, we agree that there have got to be rules in this province. We're responsible corporate citizens. We want to make sure that we preserve the environment in our operations and we want to be responsible to the environment of the people who live within it. But the rules are a little bit too strict." So what did we do? Eventually we made, by regulation, changes to the act that allowed certain things to happen that should have happened. There was some give and take. There was an

evolving of the process. That's what happens. That's what this Legislature is all about.

If the law is a little bit too severe when it comes to allowing development to go forward, there are plenty of opportunities, under any government, to bring forward debate through legislation or through private members' bills, or whatever it might be, to be able to deal with the specific issue. But you've got to have clear rules. You can't have an inconsistency in how those rules are applied when it comes to the environment, because the environment is not inconsistent. It is a fairly exact science. If you pollute something, you harm something in the environment, you're going to pay for it, either in life or in financial terms or aesthetics. I say on that, in regard to what happens with other legislation, we don't say under other legislation, under the Environmental Protection Act or under the Mining Act, that you've got to be just having regard to what's in that act; we say you've got to be consistent. There are some good reasons.

I just want to pick up on the point that my good friend Mr Conway raises in regard to Mr Rae's points that he made in regard to ideology and the radical right. I think we should listen, because if we learned one thing in government, one of the lessons that we learned is that you cannot come to government and only govern from strictly the perspective of your ideology. We have to accept in our democratic system that there is a system of political parties. In our system right now we have three parties.

We have the radical right led by Mr Harris and—I think the term was neatly put yesterday by one of the presenters in London—you have the Liberals who are somewhere to the left of you but far to the right of centre, and you have the New Democratic Party, which I would say is left of centre to centre. That's good because that allows the dichotomy of debate to happen so that we're able to strike the balance on all legislation that goes forward. Then you've Bill Murdoch's party. We don't know quite what they're doing, but they have something to do with severances. That's all I know.

1520

Interjection.

Mr Bisson: Is that a point of order you're trying to get to here? No?

The point I'm trying to make is what Mr Rae said. It's a lesson that we learned in government. When we came to government and we found we were faced with a humongous problem, being with the recession, there were a number of things as a party that we said, "Hey, we've just got to do them because, ideologically, we've said it has to be so." But we learned, and we paid for it I think to a certain extent in the election of 1995, that you have to be able to govern for the good of the people and not just the good of your party and your ideology. We as a government, if anybody did that right, we did that properly. We recognized that you just can't do it from an ideology.

The problem with what you guys are doing in this legislation, we see the radical right all over this thing. You have an act that says in the title that you want to promote economic development with a balance to the environment, but when it comes to the substance of the

act, you say, no, you don't want to support that principle. Then in the act you say that you don't have to "be consistent with" policy, you only have to "have regard to" that particular policy. What you've got is you have an ideology coming into the act, and I think that's wrong.

I think that developers out there are responsible. Developers and planners and municipal councils want to do the right thing, but you've got to make darned sure that there are rules established that level the playing field from one community to another or what you're going to have, my friends, is what my friend Jim Bradley, the former Minister of the Environment, said from the Liberal Party. You're going to have one community fighting against the other in order to develop a particular interest in the economy to come to the community by lowering their standards.

That is what's going to happen and in a time of economic downturn that we're seeing happening—we're looking at this jobless recovery of the economy moving back into, it looks like, hopefully never, but it looks like it's going to go back to what we've seen through the recession of the 1980s and 1990s. You're going to have a real temptation on the part of municipal councils, because they are close to the people, to be able to respond to the developments like the ERGs that I sought in my community back in the mid-1980s, where they will say yes to projects on the basis of their being able to create jobs and not on the basis of what can sustain a community in the long term. I think that's dangerous.

You're really putting this into a point that the trickle-down theory is going to be the one that's going to be the be-all and end-all for everybody. The trickle-down theory don't work. That's why we have laws. That's why we have rules. That's why we decide as a people, as a society, as a civilized people, to have some rules by which we need to operate, and I say that you have to have rules that are clear.

Don't listen to me. Listen to the submissions that you got through the entire hearings that we've gone through. For example, one of them that really struck me, a couple of them in fact, was the Taxpayers Coalition out of Burlington that came before our committee, not an organization that's closely allied with the social democratic party of Ontario, being the NDP. The Taxpayers Coalition, I think it's no secret, supported the Mike Harris government through its time in opposition as third party and the Tory party—

Mr Bradley: The Tory party? You should have said the Reform Party.

Mr Conway: And the Reform Party. Well, they see these guys as Reformers, that's the point.

But they came to the committee and what they said was, you've got to have clear policies. If you're going to divest power to the municipalities, you've got to give them clear direction about what it is they can and they can't do. That's not me saying that; that's the Taxpayers Coalition. Those are your friends.

The Middlesex Federation of Agriculture, the same people again, the good people in the agricultural industry, I would say prior to 1990 really allied themselves to the Conservative Party of Ontario. Most of the people involved in the federation of agriculture, by political

ideology, were a lot more closely associated to the Conservative Party than to the NDP. There is just no question about that. I think that a lot of that has changed.

With the leadership of Elmer Buchanan as the Minister of Agriculture from 1990 to 1995, we as a party made important inroads in this and, as proof of that, the Middlesex Federation of Agriculture came to you and said: "Hey, you have to have regard for provincial policies. You just can't go out on your own and do what you want. It's not going to work. You have to give municipalities clear roles." I'm not going to read their exact quotes because we already have them in Hansard, but it was fairly clear what these people said.

The chamber of commerce that came to us in Cobourg, again an ally of the Conservative Party of Ontario—not the Reformers that we know today but the people that support the Conservatives and probably do support the Reformers—came, and what did they say? They said: "You can't just 'have regard for' provincial policy. You have to 'be consistent with.'" That's what the chamber of commerce said. Why? Because the chamber of commerce in Cobourg is a responsible entity of business people who have come together, who say, "You have to have clear rules by which you do business." They don't want to have a hodgepodge of rules by which one standard will be applied in one county differently than the other. God, that'll make economic chaos is what it will do.

My colleague Marilyn Churley I think said it best. This part of the bill, quite frankly, is the "I told you so" clause, because what's going to happen in the end is that you guys are going to go ahead for the sake of an ideology and support the notion that Mr Leach has put forward through the people in the corner office of Mike Harris's office to support this idea of only "having regard for" a particular policy. We will see, not tomorrow, not six months from now, but going on a year or two years, four years, five years down the road, the price we're going to have to pay when it comes to this folly of not having clear rules by which development is done.

Don't listen to me; don't listen to Gilles Bisson. Listen to the people who made the presentations. Listen to the town of Cobourg, which came forward and said the same thing, that you have to have clear policies. That particular mayor, I remember well from our time in government, was not a supporter of the New Democratic Party. As a matter of fact, he had a problem with Bill 163—he presented to the committee when he came before us back when we were putting 163 together—but he recognizes as a responsible municipal politician that if you leave it strictly to the desire of the municipality, you're going to be in a problem because, yes, municipalities are driven locally, they are more pressured locally. What happens is that a lot of times the municipal politician, in his zeal to allow economic development to happen, will succumb to the developers.

Last but not least, I want to repeat one of the quotes that we heard yesterday from one of the presenters who came to us, who basically said—and I'm not going to look for their submission, I'll just go by memory, the last presentation of the day yesterday in London—she talked about the project that happened in her community where the municipality was going ahead with supporting a

proposal by a developer to turn over agricultural land into a subdivision. What she was being told by her planners and by her municipal council people was that she had a lot of gall to try to appeal this because, after all, if they didn't support the developer, the council was going to be in some trouble.

That's just the way it is and I say this is really a foolish direction for you as a government to take. I support my friend Mr Bradley, the former Minister of the Environment, one of the few Liberals who is—I hope you're not a minority in your caucus, but certainly a Liberal who has some idea about what this is all about, because he was there. He's the guy who sat in the minister's office at the Ministry of the Environment, and he understands very well what this is going to lead to. If you can't get the support in your caucus, I would say there's always room in the NDP for you, Jim. We always have room for you. I always wonder, you're a little bit more left than most people.

Mr Bradley: On a point of privilege, Mr Chair: It is not my intention to join the New Democratic Party.

Mr Conway: I want to say a couple of things in response to the last speaker. First of all, we're talking about planning and we're talking about a subject that touches on people at their most local and personal level. That's the first point I'd make. Of course there are provincial interests—let there be no confusion about that—and they are going to have to be articulated in some clear and reasonable way.

One of the arguments—I'll say it to Bradley and I'll say it to anybody else here—one of my concerns in this whole process is, can the centralizers show me that they are going to be able to deliver what they promise? I'm very dubious. However much I might appreciate and want to support their lofty, high-minded ambitions, can they actually deliver in a reasonable and timely way what it is they propose to do?

My very limited experience with Bill 163, and other things I might add, is that I've got grave doubts that they're going to be batting at anything above about .150 or .200. We're now operating as elected officials in an age when the public is increasingly sceptical about governments—large central governments in particular—because they've come to believe that we've often delivered substantially less than we advertised. I make that point, and I say to the government on the other side, they'd better be serious about disciplining some of the bad actors and some of the bad behaviour that powerful interests are going to want to occasion.

I say to my friend from Cochrane, as a former Minister of Education, if I had taken a fairly rigorous approach to "shall be consistent with" I hate to think of what might have happened north of Highway 7, particularly in the Cochrane district. We're a federal state where flexibility and balance are really important values, and you're right: You've got to pick a side in this. You are either Pierre Trudeau or Joe Clark. You're Tom Jefferson or Alexander Hamilton. You can't be both. It is a fundamental question, and I understand that.

1530

To be mischievous—I'm struck, given the previous speaker's comments, and I know they're well-intentioned,

but I was thinking, look at our electoral law. We're not making loud complaints, any of us, least of all myself, but it takes nine times the people to elect Al Palladini and/or Dave Tsubouchi as it takes to elect Howard Hampton. We have an electoral law that now contemplates the most extraordinary flexibility. I'm surprised that someone hasn't taken us to court.

But why do we do that? Part of it is we recognize that York region is not Rainy River district. Yes, I could get up on my soapbox and I could preach a pretty powerful sermon about the sanctity of one person, one vote. Surely no democrat anywhere would want to so prostitute that sacred principle as to create a condition where my vote in a provincial election is effectively one ninth the value of yours. But in federal Canada we have made some of those decisions because we recognize that there have to be allowances.

Again, I just simply look at this. I think the member from Cochrane rightly observes that we've had a very interesting range of testimony. I haven't heard it all but I'll tell you, the people I represent in Renfrew county, including the city of Pembroke, would want me here as their member saying "have regard to" not "shall be consistent with." I'm not here to say that everything we've done at home is perfect—far from it, because we've got our sins for which atonement is due.

I always like to come back to the provincial government. Just forget for a moment local municipal decisions. I remember in my life as a cabinet minister having a fight with my friends the imperial authority at Natural Resources. They didn't like the fact that we had cottagers in Algonquin Park. God, they didn't like that and they were hell-bent for leather to get them out. They lost that. The previous cabinet, our cabinet, said—

Interjection.

Mr Conway: Yes, I can just hear my friend. I didn't want to fight with all of those Toronto New Democrats because I knew they'd beat me.

Ms Churley: Absolutely.

Mr Conway: The place is full of 10-speed Rosedale lefties and they'd beat me game, set and match. So just as an act of political cowardice, I wasn't going to get into the fight. I couldn't convince the folks at Natural Resources that they shouldn't get into the fight, but they wanted into the fight, notwithstanding we'd made a decision that those cottagers were going to stay.

Let me use one example. I know it's an isolated example, but I thought it made a point. So what did they decide? We had a provincial policy that you couldn't do a variety of things and there were a few people in Algonquin Park who, in violation of the provincial policy, were flying the Canadian flag. One of them happened to be a war vet, but my friends at Natural Resources were going to make that policy stick. "Shall be consistent" means you can't have a flag, and away they went.

Ms Churley: That's really helping the cause.

Mr Conway: Yes, but my point to my friend from Riverdale is that is was about sensible program administration, that there was a policy here—and of course it ended up on the front page of the Toronto paper and the ministry looked like idiots. What did you have? You had some bureaucrat saying, "shall be consistent with," and

you had some 78-year-old war vet saying, "You're telling me I can't fly the flag that I was prepared to die for?" As a practical matter, you can't win that. It is fundamental.

Mr Bradley: It scares the owls.

Mr Conway: I just make the point. If you're out in my area, you are forever—

Interjection.

Mr Conway: See, this is about interest. This is about interest, it's not about politics, and that's why I come back to the one-window thing. My interest as a farmer, your interest as a developer, you are the most naïve of boy scouts if you think one window is going to solve that tension.

The other point I make here is that I just wish—I say this for Marilyn's benefit—we had more program administrators who are actually policy developers and vice versa. I wish we had some people who actually administered things writing the policy. The solitudes that we got into in recent years that are causing us real difficulty in terms of our legitimacy is the people who write the policy increasingly have nothing to do with its administration and the people who administer the policy are miles away from the administration. I don't want to sound too mundane or too much like Bob Rae, but at the end of the day—

Interjections.

Mr Conway: Oh, I mean, I watched Bob back away from public auto insurance. Why did he do it? He did it for a variety of reasons, but one of the things I heard him say is, "I can't make this work." I've got to tell you, we've got to make it work. I don't think I would disagree with a lot of what my friend from Riverdale wants, but my worst nightmare is that we are going to construct a set of statements and well-intentioned policy frameworks and then, whether it's Marilyn Churley, Bruce Little, even, God forbid, Bill Murdoch, you're not going to be able to make it work and you're going to be seen to be illegitimate.

I just think we've, all of us, done too much of that in recent times. I've got all kinds of evidence here. You cited some of the people who want the "shall be consistent with," but for every one of those I can cite at least somebody who said—including the Ontario section of the Canadian bar. I don't know whether they're telling the whole truth, but there's a fairly substantial weight of opinion that says there is a body of jurisprudence that's been built up around the "have regard to" and a variety of other pieces of testimony.

I just say in conclusion again, it's a big province. This is about planning. Yes, there are provincial interests, but in the main it's going to be a lot of local people who are going to have to live with the results, a lot of people who are going to have to, at the local and regional level, make it work and be seen to be making it work. My concern, quite frankly, is that all of us have in the last 25 years been guilty of promising more than we've been able to deliver. The taxpayer and the shareholder is getting pretty frustrated. As one of my friends likes to say, "And what was the problem for which this is the solution?"

Ms Churley: At the risk of lecturing my good friend from Renfrew, which I would never do, of course, I wouldn't dare take that on, first of all let me say to him

that I can one-up him on my roots. I grew up in Happy Valley, Labrador: no roads out of town, surrounded by mountains and streams and rivers.

Mr Bradley: What about those flights?

Ms Churley: Now there are flights coming in. I know, nature is being ruined.

To be serious a moment here, I think Mr Conway made some very good points. I believe, however, that also Mr Conway showed the hand of a real Liberal, because although at the end he came down on one side very reluctantly, because he can see all the problems with that side too, after telling us about the problems with one side and then the problems with the other side, warning the government what it must do to make the one side he's going to choose today to support, that they must vigilant etc because he's supporting it reluctantly, I believe in a sense saying he doesn't quite trust what they're going to be doing—I don't know if I'm happy or not happy that he's decided to not run for the leadership. I'm not quite sure, given the—

Mr Bradley: Let's get some government spokesmen in here so she doesn't pick on him.

Ms Churley: Well, I think he did ask for it, after all. But now I've learned—after listening to Mr Conway today, I have some idea of what poor Mr Bradley must have put up with during the Liberal government time when he was the Minister of the Environment and—

Mr Conway: You know, maybe I should use an example for Ms Churley's benefit. I would have thought—

The Chair: Mr Conway, Ms Churley has the floor.

Ms Churley: I have the floor. Perhaps we're going to have to continue this argument another time, another place. What I'm saying, though, in a way is serious, and this is where the lecturing comes in a tiny bit. You're talking great theory here. Mr Chair, he's talking great theory.

Mr Conway: I'm talking practical reality.

Ms Churley: No, this is theory; this is not practical reality. When you look at the environment, the environment knows no boundary. Someone upstream can be totally affected and have absolutely no say in what that particular region, that municipality—if upstream is outside in another municipality, have absolutely no say about what happens. There's no clear provincial policy.

1540

It's very simple: The environment knows no boundaries. If you do not have some clear, concise and consistent policy in certain areas—of course you can't have all the i's dotted and the t's crossed. I would say that not only did Mr Conway have very limited experience with Bill 163, everybody across the province has very little experience with 163, because it had no time to be implemented.

I've already stated that there were great problems with the guidelines. The policy: There may very well have been problems with that. There was no time to find out. It was a new piece of legislation that was given no opportunity by this government. After all those years of consulting and trying to reach some broad consensus, there was no opportunity for anybody to find out whether it worked or not. Of course there would have had to be

some fine-tuning. This is not fine-tuning. This is taking a pretty good piece of legislation which really did have a balance between environmental protection and development opportunities—and most importantly, I come back to the fact that what Bill 163 did was give regions more autonomy and more control over development in their own area. The tradeoff was, therefore, let's attempt to have some consistent policies here so that everybody won't go haywire.

As I stated earlier, limited resources: The Ministry of Natural Resources is going to cut its staff by about half. I assume the Minister of Environment and Energy is too. There are going to be a lot fewer staff.

Mr Bisson: Self-regulating.

Ms Churley: Yes, self-regulating, as my colleague says. There are going to be a lot fewer resources for those regions. Maybe Renfrew will do a great job. I don't know about Grey. I don't know about certain other areas. If you don't have a consistent policy when you give the regions and municipalities more autonomy, I know that with far less public consultation, far less ability for the public to be involved, as we're going to be dealing with—I know we have some amendments on public participation and so does the Liberal Party, and I'm really hoping we can convince the government to make some changes there.

When you look at the bill in total, when you look at the bill with all of the other policies or tearing down of policies which this government is in the process of enacting, then we have deep trouble coming. When you have massive layoffs at the Ministry of Environment and at Natural Resources and throughout the government overall, when you have a 47% transfer cut to the municipalities, when you have a change in development fees so that now we're looking at only hard services being paid for by the developer and therefore where's the money going to come from for the so-called soft services—schools, libraries, those kinds of things—when you look at the fact that conservation authorities are losing their funding and are given the ability to sell off land, when you look at the relationship between municipalities and conservation authorities, and conservation authorities are going to be needing that relationship with the municipalities more than ever—and there's more.

I'm coming at this very much from the environmental protection aspect. I know there are very important planning autonomy issues here, and I know there is often conflict between local government, environmental groups, cottagers, homeowners and it's very difficult to strike that balance. What I'm saying, however, is that we have lost the balance entirely in this bill. I hope Mr Conway has read the bill; I don't know if he has.

Mr Bradley: From cover to cover.

Ms Churley: From cover to cover. If he did and if he did so in the context of some of the other lost environmental protection, which I would be very happy to provide him with, there are just pages and pages of deregulation and cuts that are going on right under his nose and he probably doesn't know because most of the public have no idea what's going on. I know Mr Bradley knows. I assume he knows.

When you put all of these in context, then this bill is going to have a devastating impact on the environment. You can't just put this bill aside and argue "to be consistent with" or "have regard for" out of the total context of the deregulation which is going on overall within this government.

It's not that I don't think municipalities and regions like Renfrew can make good decisions for their own regions. I do believe that when they are given more autonomy by the government, so that in fact they are given more responsibility and therefore ability to plan within their own region, if they don't have some kind of consistent guidelines in broad areas of environmental protection, it is going to be very difficult for some municipalities to do the proper planning—I think that's what I come back to—that's needed. You're showing very good faith when you say to the government, warn the government that there are some special interests that they're going to have to pay attention to and make sure that there are some checks and balances here.

I have no indication that those checks and balances are going to be there. If I believed there were, I wouldn't be so upset about this "have regard for." It is the very fact that this bill is all about developers, and it's very clear if you read the bill, it's very clear if you sat in this committee and heard the developers come in, licking their chops about this bill. There are some real difficulties when you have such a split, when you have people who have expertise, not just special interests in the environment for some reason, people coming in and saying, "Oh, well, we want to protect the environment because it's a good thing," but people who have spent years of their lives and who are very much more aware than any of us sitting around this table of the serious environmental degradation that's already taken place, people who have a real expertise in areas around environmental protection, whom we need to listen to.

What I fear has happened here and what I've seen happen in terms of the consultation that has taken place is very clear. I got a list from the Minister of Municipal Affairs and Housing that there were some meetings with some environmental groups and when I talked to them, they said yes, but the majority of them said it was a get-to-know meeting. They weren't consulted overall. I asked them time after time, "Were any of your concerns, any of the issues that you cared about, included in this bill?" "No." I asked several developers the same question, "Were you consulted?" "Yes, we were consulted widely with." "Good. Okay. Were most of your concerns, some of your concerns, included in this bill?" "Yes, we're very happy with this bill."

What does that tell you? No wonder the environmental community and the people who care about protecting the environment and their land, are upset. They haven't been listened to. Their concerns, not just "have regard to" or "be consistent with," but their concerns aren't in here.

Interjection.

That's a big problem, and I would say to my friend from Grey—Owen Sound, that I believe he muttered something about there not being too many environmentalists out there. I'm going to issue—is that what you said?

Mr Bradley: No, he said in the Conservative Party.

1550

Ms Churley: Oh, not too many environmentalists in the Conservative Party. That's what he said.

Mr Murdoch: You don't want to listen to him. He'll lead you astray.

Ms Churley: I would agree with that. I haven't met any yet.

Interjection: Including the Minister of Environment.

Ms Churley: I will end on that note, actually, because it is a warning to the government.

The Chair: Thank you, Mr Bisson.

Ms Churley: I'm not finished. I'm saying I'm ending on that.

The Chair: Forgive me. I thought when you said you would end on that note that that was the end.

Ms Churley: I know you're very anxious for me to end. However—

Interjections.

The Chair: Sorry.

Ms Churley: That's okay. I want to come back again to the—the—

Mr Galt: You forgot it.

Ms Churley: Yes, I have. I got distracted here, but I know it was an important point. So I guess actually I will end on that note. But I do hope that—I'm not as eloquent a speaker as Mr Conway.

Mr Bisson: You're doing quite well, Marilyn.

Ms Churley: I have to say that I always enjoy listening to Mr Conway speaking, and I learn from Mr Conway sometimes. I listen closely to people who have been around this place for a long time, because you certainly know more than I do in many, many areas.

I think in this case, however, I would say that I know perhaps far more about this particular issue than Mr Conway does. I think in this case that some of the comparisons that he made—and that's why I said we were having a little bit of an academic discussion from time to time. There are no comparisons. We are talking about a very vital aspect of a bill that—it should be labelled the environmental destruction bill.

Interjections.

Ms Churley: Really. It's a very serious, serious—I can't find any words to describe how serious the effect this bill's going to have on the environment, and if we don't do something—that's why I'm hoping that you'll change your mind about this particular issue—I think that, as I said earlier, this is going to be I told you so, and it might suit you well, if you're here 20 years from now, still considering, or maybe not, being the leader, you might want to be able to say, "Yes, I tried to warn them and they didn't listen."

The Chair: Mr Bisson.

Interjections.

Mr Bisson: I'm just waiting for the chatter to stop.

The Chair: Order.

Mr Bisson: Listen, the problem I'm having with the debate that we're having right now is that you have a government on the other side, in the name of a few members like our member for Grey-Owen Sound, wherever you got him from, who really don't take this issue seriously at all. They really, really believe the mantra that they've been told by the people in the corner office that:

"We just got to do it this way. It just has to be pro-development and you don't have to strike a balance in it."

The problem with you, Bill, is that you haven't learned from your own bloody history. The Conservative Party, back in the 1970s, recognized that we needed to do something around forestry. We were having a situation where certain forestry companies in Ontario were out harvesting timber and not doing a very good job about how they planned to do that harvesting and what they did in order to make sure there were trees there for the future. The government of the day under the Conservative government didn't come back and say, "We're going to put in place changes in the timber management act to make forest management agreements just something that companies may or may not conform with," they put in place FMAs that basically said to forest companies, in some cases kicking and screaming into the 1970s, that they had to take the responsibility when it came to the harvesting of that forest.

In the end, there is not a forest company in northern Ontario that will argue against the wisdom of what the then Conservative government did, because although at the time they said, "We have to be pro-development, and you can't put all these onerous restrictions on us when it comes to protecting the forest," they are now recognizing it was the best thing they ever did. Alan Pope, the guy from Cochrane South, the former member who sat in my seat in the Legislature, was the member who did it, because the government back then, the Conservative government, recognized that you have to sometimes push the private sector a little bit into taking its responsibility.

I use that as an analogy only to say that if we at the time as legislators, under the leadership of Bill Davis and Alan Pope, the former Minister of Natural Resources, would've taken the position that you are on this bill in saying the forest companies will only "have regard to" the provincial policies as they apply to forestry, I would argue that our forest industry in northern Ontario would not be as healthy as it is today.

Yes, there were some good examples, Abitibi Price up in Iroquois Falls in its forest management unit that even before the legislation was doing a good job, because there are people in industry who want to do the right thing. But we have to remember they are not the majority in some cases. I would argue in certain industries they're certainly in a minority. Even though we can name names in this committee and get away with impunity, the point, as I'm saying, is that there were all kinds of forest operators in the north at the time, and I would argue in the very area of Mr Murdoch, who were not doing a very good job.

So the government of the day, the Tories, the Conservative government, said, "We will put in place an act that respects the forest, that makes sure that we tell the people harvesting trees how they are to do it," because the problem we were getting into was that some forest companies were going in and cutting down the spruce and not doing anything in order to reforest and the natural cycle of the forest came back in poplar. That's very nice and fine, but it doesn't do anything towards sustaining that industry over the longer term, because spruce is the choice species that those particular com-

panies had to go after. So they had to adopt policies that companies would have to adhere to and be consistent with when it came to forest management. I say you need to learn from your own history.

The other thing I would say, and it just may be in jest but also being somewhat serious, is that the problem I'm having with you, Mr Murdoch, and some of the people—and not all of them, because I think most of the people on your side are trying to take this somewhat seriously—is that you're sort of saying to us that you're only going to have regard to what the public has to say and you're only going to have regard to what the opposition has to say and be damned.

The reality is that, like your colleagues on that side, some of us do come to this Legislature with commitment about what we're doing. I know Mrs Fisher, in discussions I've had with her, and Mr Baird and Mr Carr and Mr Galt come here because they believe they have a job to do and they have to speak on behalf of their constituents and they have to do what they think is right.

I don't appreciate the attitude that you bring to this committee in regard to thinking this is a big joke, because it's not. The issue is that if we don't do a good job right now in taking our responsibility as legislators and doing our job to make sure that we have a good policy about how planning is to happen, it's going to cost us money in the future.

So I would make this recommendation. As I say, I support, along with my colleagues in opposition, the general direction of what the government wants to do. You want to make it easier for development. We all agree. So why don't we build on what we agree on and take a look at what can be done?

I think the real issue here—and we've missed it, and a couple of presenters have touched on it—the question is, we need to go back and take a look at the policy. The problem, and Marilyn Churley mentioned it before, is that maybe what we should be doing is going back and looking at the policies, the some 727 pages of them, looking at how they apply to the development industry, trying to make those clear so developers and planners and municipal politicians have a clearer understanding of what the responsibilities are, but then in the act say that you have to "be consistent with" those policies.

You can build the flexibility you want through regulation and through the policies themselves. You can do that. I don't buy entirely the argument Mr Conway makes about having inflexibility in regard to how you deal with the electoral example that he gave, because I think I can make an equal argument the other way.

But I say the problem that you're doing now is, you're really opening up the gate to bad development in this province, and I think we have all kinds of examples to show.

I know that you care. I know that you want to do the right thing, but I think what happens in government sometimes is that in our zeal to satisfy our minister and to satisfy the centre in our quest to get to the cabinet table, we sometimes forget our responsibility as legislators. I know; I was there.

Ms Churley: Did you try to get in cabinet?

Mr Bisson: Oh, I tried to get there and they never took me, the buggers.

But the point is that I think we need to take our responsibility and we've got to do a good job in this committee, to go back to the minister and say, "Truly, what we've got to do is we've got to take this particular piece out; we have to be consistent with provincial policy," and then do what was suggested by a number of presenters: Go back, do a public process about how we deal with the policies, but put in the legislation that the policies have to be an ever-evolving thing, that as we learn from the examples of how good or bad examples of the policies have been applied, we have an evolving process that allows the policy to change to be able to reflect the best practices out there. I think that way you can satisfy the needs of the development industry and also at the same time strike a balance with the environmentalists when it comes to that particular issue.

1600

Mr Conway: Just quickly, I wanted to say in summary a couple of things, particularly for the benefit of my friend from Riverdale.

Yes, I have read the bill. I'm no planner and I'm not particularly knowledgeable about this area of public policy, but I have read Bill 20.

Bill 20 has to be understood in part, in significant part, by virtue of the experience that we had with Bill 163. Bill 20 is very much related to 163, and on this question that we're currently debating, which is the whole question of shall local regional planning decisions "have regard to" provincial guidelines, statements, interests or shall they "be consistent with," it is for me a fundamental question of where you are prepared to put your trust.

There is a view that if you're a central planner, you're a priori virtuous; if you're a local politician, you're a philistine.

Ms Churley: Yeah.

Mr Conway: Well, that's the impression that is being left. And I'm going to be political here: The difficulty that many people had with 163 was that the policy in practical effect was not what was advertised. What was advertised was more power to the people at the local level. What you did in Bill 163 was to give to local people a greater range of decision-making around a more limited number of essentially secondary and tertiary issues.

The rage that I encountered with the planning statements, the provincial policy statements, the seven of them that were promulgated under the rubric of Bill 163, was that that was the real legislation, that you had as a government installed very substantial policy in the minutiae of the policy guidelines, and it enraged people, because it was exactly what was not advertised. You're not the first government to do it, by the way.

Ms Churley: That's what I thought. I knew that.

Mr Conway: No. Let me be perfectly frank. But that's what we're talking about here. We're talking about "shall be consistent with" or "have regard to," and the problem is that I've got with a lot of people is that they were so upset by the experience with 163 that quite frankly they're not prepared to trust the Legislature and the government quite so quickly to play that game again.

Yes, there are lots of things in this bill and the policy that informs it that concern me greatly. I think the member for Riverdale is right to sound an alarm bell about a want of environmental sensitivity, not just in this bill but in much of what this government is doing. I don't disagree with that. But the point I want to make is, if we are going to on planning issues try to repeat what the previous government did in the policy statements under Bill 163, we're going to have an uprising.

I'm hoping, and perhaps naively, that we've all learned something from the experience and that local politicians particularly, well advised by good planners like the member for Middlesex and his professional colleagues, will warn local and regional politicians against the sort of folly that we could all point to.

The other thing I want to say for the benefit of my friend from Riverdale is, you know, you talk about local decision-making. I used to think that my right to drink alcoholic beverages was a provincial interest. When I came to Toronto years ago, I was always fascinated by the fact that I could walk down on the west part of Toronto and I could exercise my provincial interest here, but thanks to a really good New Democrat, the late Bill Temple, I couldn't exercise it on the other side of the street, because for whatever good reason—in what part of Toronto was that?

Mr Bisson: High Park-Swansea.

Mr Conway: High Park—they had decided, incredible as you could imagine, in the burgeoning cosmopolitan metropolis that was Toronto, that you weren't going to be able to drink the evil rum, even in a licensed establishment, in that part of Toronto, but I could exercise my provincial interest every place else.

Mr Bisson: There's plenty evil about rum.

Mr Conway: I say it because there's often a sense that it's those of us who are barnyard senators from Renfrew who have these peccadillos.

Ms Churley: Well, there's a bit of that.

Mr Conway: Well, I know, but I make the point that on planning matters in the city of Toronto, it was decided—I might add, by a good New Democrat, in part—that we should be dry in that part of High Park and you could be wet most of the rest of the place. Now, you might stand back and say, "That's really a peculiar policy," but it was a policy that was made locally, against—

Ms Churley: They always support it. The local residents vote to stay dry.

Mr Conway: Of course they did, but that's my point. You're making my point, that on other planning issues—you know, if I've got some zealot buried in the Ministry of Municipal Affairs, and I can't get at my accuser—I don't even know who it is—but they are managing, they are actually interpreting this policy guideline that's got me completely stalemated—at least I can get at Marilyn Churley and ask her a few questions. But given what you were trying to do in 163, on the basis of what some of my people were telling me, I don't even know who to go to here.

I just conclude with that, that yes, there are environmental concerns and we've got to do more than this bill does. Quite frankly, if we screw up, I guess there are

people who are going to have to accept the responsibility. I'm a democrat. I'm hopeful that local people are going to, with more transparency, which we can provide them with, be able to figure out who's to blame for certain things and hold them to account. But I say again to the member for Riverdale, I don't think I'd feel as upset about some of this had I not had the experience of the policy statements that were offered up under 163, where, to a lot of reasonably impartial people, the government was playing a very different game than the one it advertised.

The Chair: Further comment? Seeing none, I put the question.

Ms Churley: Recorded vote.

Ayes

Bisson, Bradley, Churley.

Nays

Baird, Carr, Conway, Fisher, Galt, Hardeman, Lalonde, Murdoch, Smith.

The Chair: I'll deem the motion to fail.

Are there any further comments, suggestions or amendments to section 3? Seeing none, I'll put the question. All those in favour that section 3 pass?

Mr Bisson: Recorded vote.

Ayes

Baird, Carr, Fisher, Galt, Hardeman, Murdoch, Smith.

Nays

Bradley, Bisson, Churley, Conway, Lalonde.

The Chair: I deem that section to pass. Moving on to section 4, are there any amendments to section 4?

Mr Bisson: I have a motion here. The motion is subsections 4(1), (2) and (3) of the bill, section 4 of the Planning Act:

I move that subsections 4(1), (2) and (3) of the bill be struck out.

Basically, what we're getting at here is fairly simple. What it's going to really mean if we allow this particular section of the bill to go ahead is that anything can go when it comes to how we deal with an official plan. I think, quite frankly, that's not in the best context of what we should be doing in the planning business.

The Chair: Is there any further comment? Seeing none, we'll put the question. All those in favour of the amendment? Contrary? I deem that amendment to fail. Are there any further amendments to section 4?

Mr Hardeman: I move that subsection 4(2.2) of the Planning Act, as set out in subsection 4(3) of the bill, be amended by striking out "under this act" in the third and fourth lines and substituting "described in subsection (2)."

This is a technical amendment, again, to clarify that the minister's delegation of powers is the same whether the power to a planning board was requested by the planning board, as it is when it is delegated down by the minister at his discretion. When the minister passes the power or the authority for approving zoning, the delegation is an approval. When it's the authority to deal with

the official plan, it is exempting him from the approval process, so the wording needs to be clarified. It's intended to move it out of that section and refer to the clarification in the same section. So it changes nothing other than a technical amendment to make sure that it's clear that in both cases the minister's delegation is identical.

The Chair: Any comment? Seeing none, we'll put the question. All those in favour of the amendment?

Mr Bradley: Can we—

The Chair: I'm sorry, I put the question, Mr Bradley.

Ms Churley: Could we ask for unanimous consent, is that possible, to—

The Chair: To what?

Ms Churley: To not take the vote now and ask a question about this.

1610

The Chair: Is there unanimous consent? Yes. Proceed, Mr Bradley.

Interjection.

Ms Churley: As I said previously in relation to another of your technical amendments, we're having difficulty here understanding the implications of it because the explanation is a bit out of context and we have no explanatory notes before us. So I don't know if I understand what you just told us and the long-range implications of that. I think what we need here is a bit more of an explanation, if you don't mind.

Mr Hardeman: With the Chair's permission, we'll ask the solicitor to explain it, to make sure that the technicalities of it are explained in an appropriate manner.

The Chair: Please identify yourself for Hansard.

Ms Elaine Ross: Elaine Ross, and I'm with legal services, Municipal Affairs and Housing.

What this does is it replaces the words "under this act" with "described in subsection (2)". That's because, if you look at subsection (2), when the minister delegates powers to a planning board, he can only delegate all his powers under the act except for the power to approve official plans or exempt official plans. So it's important that when he delegates to the planning board in this section, it be the exact same powers that he can delegate. Unfortunately, the way it was originally drafted, it gave the minister the power to delegate official plans and the ability to exempt official plans. So what we're doing is—it's kind of hard to explain—we're changing that to make it consistent, so that (2) and (2.2) are totally consistent.

Ms Churley: Oh, you want to be consistent in this case.

Ms Ross: Yes. From a legal drafting point of view, yes.

Mr Bisson: I think you're going to have a cut in salary.

Ms Ross: So (2) applies when the planning board asks for delegation; (2.2) applies when the minister, in his discretion, decides to give them a delegation of authority without a request. Obviously, the powers that they get should be the same.

Ms Churley: If I may, I would tend to agree with that, but if I don't support the powers—I guess this is a political question. Perhaps we'll come back to the parliamentary assistant now. Again, I'm having the same problem that I had before with the previous amendment.

This is an amendment to a further part of the bill, is it not? It has an impact on powers that I don't support, powers that have been delegated to the minister. I guess this is technical in that it gives that minister the powers over all. I sound very vague, don't I? It shows that I still don't understand this.

Mr Hardeman: I think it's clear that the granting authority of the minister that you are alluding to that you would not be supporting in other parts of the bill are affected by this, but we want to make sure that where the minister has powers beyond this section of the bill, it does not apply to this section of the bill. So I would suggest, not to tell the opposition how they should vote, but the amendment is intended to make certain that when the minister delegates authority to planning boards, he does not delegate more than we think in this section would be appropriate to delegate.

Ms Churley: That's helpful. Thank you.

The Chair: Is the committee ready for me to put the question? No further discussion? All those in favour of the amendment? Contrary? I deem the amendment to pass.

We'll now put the question for section 4, as amended, if there's no further discussion. All those in favour of section 4, as amended? Contrary? I deem that section to pass.

Seeing no amendments proposed for sections 5, 6 and 7, are there any comments, questions or amendments to sections 5, 6 and 7? Seeing none, I'll put the question. All those in favour that sections 5, 6 and 7 should pass? Contrary? Those sections are deemed to pass.

That brings us to section 8. Are there any amendments to section 8?

Mr Bisson: I move that subsection 8(1) of the bill be struck out.

I need to ask a question of clarification to the ministry just before I proceed on this. Prior to Bill 163, did the Minister of Municipal Affairs have the right to tell a municipality what he or she may want in an official plan? Did that exist prior to Bill 163?

Mr Hardeman: I'm informed that that was created by Bill 163. There was no power to prescribe the contents of an official plan prior to that point.

Mr Bisson: I thought it was and that's why I just wanted to doublecheck. The only thing I would say on this is that again it comes a little bit back to the argument that we had a little while ago in regard to provincial policies. In some cases I think the crown has to reserve the right in certain municipalities that are under an extreme amount of development to give certain direction as to what needs to be in an official plan to be able to respond to what those provincial interests would be.

It's not one of those things that you're going to make it or break it on this act, but I find it a little bit strange that the province would want to take that provision away. There are some cases—I think we can look at some of the developments here in the GTA as pretty good examples if we get into some of the specifics—where the crown, in order to be able to advance its interests through the province in regard to development, may need that particular right to be able to deal with those provincial interests, let it be transportation, let it be agriculture,

whatever it is. If you take that out of the act, you're really handcuffing yourself, especially if you've got policies that other people only have to "have regard to."

Mr Hardeman: I think the government's position is, again going back to local autonomy, when a municipality prepares and approves an official plan and has due regard to the provincial policy statements and those are reflected within that plan, it should be the local decision as to what other items they may wish to deal with in their plan, provided all the provincial interests are protected. We do not believe the minister should be prescribing a cookie-cutter approach, again, to a list of prescribed detail that should be in the plan for all of Ontario, because there will be great variances in official plans in requirements, beyond protecting the provincial interests.

Mr Bisson: But I would argue that it's not a cookie-cutter approach. Tell me if I'm right in assuming this, because the basis of it is this. Let's say, for an example, there is a huge find in the city of Timmins in regard to some mining interest where we know it's going to bring tens of thousands of people into the community. The province may decide, in the municipality making changes to its official plan, to set aside particular lands for either recreational use or transportation use in regard to transit or whatever it might be. Wouldn't the province want to have some ability to say, "Make sure you take that into account when you're preparing your official plan"? Isn't that the intent of what you're trying to do and what we tried to do under Bill 163?

Mr Hardeman: If the plan were being prepared and the municipality was having due regard for all the provincial policy statements and that was reflected in the plan, I think it's appropriate that the province deal with the issues of direct interest to the province and that it deal with those through the same process that others would.

Mr Bisson: That's not quite what I'm getting at. Specifically, let's say you know there's going to be a major influx of people coming into a community and, for whatever reason, either there isn't an official plan in that community or you need to make an amendment to that official plan to deal with the influx of people in regard to development. Wouldn't you want to have the ability as a province, because the municipality may not want to or may not be thinking about particular provisions it has to allow for in that development—wouldn't the crown want to reserve the right to say, "Don't forget as you're planning for these new subdivisions to allow for more parkland"? Or maybe the province has plans to put a four-lane highway through a particular section at some point in the future and doesn't want to be left having to come back to expropriate the land at a cost. It seems to me that the crown would want to reserve that right. It's not a cookie-cutter approach. I would argue that the minister would not do that unless he or she has some fairly specific ideas about what it is they want to do. I can't see what you're gaining by taking that out. I really fail to see the logic here.

1620

Mr Hardeman: One point we must recognize is that as the municipalities are preparing their official plan, they too are preparing it for the future development of their

community. If there is a scenario such as you mention, an influx of a great many people who would require servicing, I think the government would suggest that's the very reason that municipality is in the process of preparing an official plan to develop their community. We don't believe the province should become the planning department for all the local plans, to deal with those type of issues, the ones being dealt with by the local planning authority.

I suggest the province would have an interest, if they foresaw that type of eventuality, and would put that forward through the planning process in its comments so they could be dealt with. If the municipality would not be willing to do that, rather than have it prescribed as a requirement in the official plan, we would as a province be able to go through the same process as any other interested party to deal with the plan in an objection.

Mr Bisson: You basically answered my question. What it comes down to is, do you believe the province has a role to play in planning? Your answer is no. You're saying the municipality should be left to do the planning. If you believe that and the province doesn't have a role, I guess it's logical that you take it out, but I would argue otherwise. There are occasions when the crown has to be able to reserve the right to provide for certain services or certain situations that a municipality may not take too seriously at the outset of developing an official plan or making amendments. I just voice my opposition.

This is really something that's not going to cost you any political capital, and I would just ask the government for a little bit of commonsense on this one. I'm sure Minister Leach is not going to be running around the province trying to put his two cents into every official plan out there. I would ask the government to support us on this particular motion. You're saying, "Yes, Minister Leach wants to." You were nodding your head.

Mr Hardeman: It was a totally other comment.

Mr Bisson: Okay. I didn't think Leach wanted to do that.

I would just urge government members to support this motion. It doesn't cost you anything and all it says is, "The minister reserves the right to make his suggestions known and followed by municipalities when it comes to the official plan or the amendment of one."

The Chair: Is there any further comment? Seeing none, we'll put the question. All those in favour of the motion? Contrary? I deem that motion to fail.

Any further amendments to section 8?

Mr Bisson: Yes, there is, to subsection 8(2) of the bill, subsections 16(2), (3) and (4) of the Planning Act. I move that subsection 8(2) of the bill be struck out.

Just so I don't get too far ahead of myself, I believe that's the apartment in houses section, right? Well, here we go.

The other issue in this bill of paramount importance to myself and to our caucus, the New Democrats of Ontario, is that we, like the government today, understood that we need to do all we can to encourage the development of new apartments in the province. The government today says it wants to do that through a private sector approach. They don't want the government to subsidize the construction of new non-profit or co-op housing projects.

They want the private sector to do it on its own, and take a marketplace attitude when it comes to developing new apartments in the province.

I have a bit of a problem about why the government would want to strike out the apartment in houses of Bill 120. Quite frankly, that is a way you could achieve your ends. There are all kinds of individuals out there, and you know them in your community as I know them in mine. My next-door neighbours, Gerry and Thérèse, wanted to buy a house and were not able to do it on their own. The only way they could afford a mortgage was to look at some way of generating revenue out of their investment, so they rebuilt an older building and put an apartment in the basement. The municipality didn't object, because fortunately our municipality, in the section of the city I live in, doesn't have any objection to that. They allowed them to do it, and because of that they've been able to achieve their dream: They've got their home. They're excellent neighbours, and we are probably best of friends. But the point is they would not be able to own their own home if it hadn't been for the ability to do an apartment in their basement.

The government says that's what it wants to do, encourage the private sector. Well, Bill 120 did that. Bill 120 said, "We are going to make legal those units out there" that municipal councils had a problem with at the time the bill was enacted, "and in the future municipal councils cannot disapprove of such construction."

The only conclusion I can come to about why the government would not support what we did under Bill 120—I think there are two things. First of all, the opposition had to oppose to a certain extent. The government today, then the third party under the leadership of Mike Harris, the leader of the Conservative reform party of Ontario, basically said he wanted to oppose the government at any cost to be able to come to government. I guess he opposed that legislation on that basis, because there is certainly no common sense in a Conservative government or a Conservative Party opposing something that supports the individual entrepreneur who wants to go out and create investment for him- or herself through a home.

The second reason you might be opposing it—and I hope this is not the case, but what I've been told in my community in subdivisions like Melrose township and others is that the view of certain people who live in fairly exclusive neighbourhoods is that they don't want the riff-raff moving in. They see having an apartment in your basement as mixing neighbourhoods together, that the fellow or lady who buys or builds a home worth \$400,000 or \$500,000 doesn't want to be sharing the neighbourhood with people who might not make as much money.

I can't believe the Conservatives are opposed to Bill 120 on that basis. But I do know that is the position of many municipal aldermen and councillors across the province. I've met them in Ottawa, I've met them in Windsor, I've met them in Toronto, and I've met them in Timmins even, for that matter, where there are certain aldermen who say, "We don't want to encourage the mixed neighbourhoods." That really is appalling, because the way we're able to bridge the gap and understand

more about each other is by being able to associate, not only through work but through where we live.

For the government to oppose the creation of apartments in houses in regard to Bill 120 is the wrong way, and I would just ask the government to reconsider. If you want the private sector to create new apartments, this is one way you're going to do it. Minister Leach is now saying he's going to do that by repealing the Landlord and Tenant Act. He's going to do it by repealing the Rent Control Act. He's going to do it by cancelling—which he has done—the non-profit and allowing the private sector to move in. I would argue that none of that will get you apartments to the degree that Bill 120 did. This really is not a commonsense approach to government; this is a nonsense approach.

The Chair: Any further comments? Seeing none, I'll put the question.

Mr Bisson: Hang on a second. I can't believe the Tories would let this go. You guys are the defenders of the small entrepreneur. That's what your party is supposed to stand for. You're the people who go out there time and time again—and I've listened to you through my political life and before getting here. If there's anything the Conservative Party stands for, it's for giving the little guy the opportunity to make a buck. Well, this is such an opportunity. Why would you want to do this?

The only way a lot of people are able to get into the market, owning their own home and building an investment they're able to work towards retirement with, is to allow an apartment in their building. They're not going to be able to do that in many municipalities in this province if we allow certain municipal councils to have the right to reject.

Bill, the member for Grey-Owen Sound, probably agrees with me. He might be being handcuffed by the Premier. I cannot see you, quite seriously, as the Conservative I know you to be, wanting to take away that opportunity from individuals. If Conservative members don't support this particular amendment to the bill, they're saying no to a whole bunch of entrepreneurs in this province who are trying to find a way to make an investment so they can find their place in the sun in our economy. I can't believe you guys would vote against it. This is really ludicrous.

1630

Ms Churley: I would pose the same question. During committee time, Ms Fisher and others talked about the need to move to a system—we come back to this issue again that municipalities decide themselves because they're the best judge. That's been put forward time and time again, and I understand that argument. I just don't see how it works in this context.

As I've said before, it seems to contradict the Tories' own "Out of my face" kind of response to government at this time. It's infringing on the property owner's right to make a little extra money to pay the mortgage, to put up an inlaw or an elderly relative, or a single mom with a child. It actually helps society at this time when we're in deep trouble right now.

This government is about to put somewhere between 13,000 and 27,000—who knows what the number's going to be—out of work from the Legislature. There are all

kinds of other layoffs happening. Corporations are making record profits and continue to lay people off. There aren't any jobs out there. There are going to be more and more people not only looking for accommodation, but more and more people who aren't going to be buying homes in some municipalities because they badly need that secondary income to be able to afford it. It's actually going to hurt the real estate market. It doesn't make sense.

I would just ask, if anybody cares to answer—I don't need to hear the mantra about municipalities being better able to make the decisions themselves. On one hand, with the development charge, for instance, the province is reaching in a hand there and saying, "We're going to look at that and we're going to fix it so we're not going to leave it up to municipalities to determine what they can and can't charge developers." Who are you listening to? Why in some cases is it okay, desirable for the municipality to have control and in other cases it's not? It's quite inconsistent.

There are some municipalities—I dealt with them when I was a short time on Toronto city council, so I know some of the ones—and I also know some of the very unsavory, unpleasant reasons, which were outlined to this committee by some of the activists in that field. I have to tell you, they weren't exaggerating in some cases. Nobody likes to hear the word "racism," nobody likes to hear that there are certain sections—I'm talking specifically to the Toronto area because that's the one I know—some neighbourhoods that want to keep people out.

I don't think the Liberals support our position on this either and I understand the arguments against. But having said that, I come back to the reason our government brought this bill in, and I think it's a very important point. Leaving aside all the issues I just brought up around whether the municipality should decide, the system we're going back to wasn't working, and it can't work.

In our discussion around "have regard to" or "be consistent with" where some said "be consistent with" in Bill 163 couldn't work. I say of course we didn't know because it wasn't tried. I say the same thing now, and in this case, unlike Bill 163 where we didn't even get an opportunity to see if it worked, we know this is not going to work. There are going to be illegal apartments, there are going to be firetraps, and there will be more people than ever living in very unsafe conditions because there will be more people desperately needing cheap accommodation. Believe me, it will be out there.

Nobody has the money right now at any level of government to hire the appropriate number of inspectors. In your bill, I believe—I don't have it in front of me—everybody has to register an apartment, and that's going to call for more resources. I'd like to see more inspectors to make sure that even the legal apartments are safe.

I'm very concerned about that. I think it's a very dangerous thing we're doing. We're going back to a system which, had it worked, I wouldn't feel so strongly about. I suppose there will always be fires even in legal apartments, and there have been, but the risk in illegal apartments is so much higher. I just hate the thought that bringing in this bill is going to mean that perhaps more

people are going to die. I'm not being alarmist here. I just think, from past experience, that it's going to happen, and I think it's wrong. I come at this almost from a moral point of view. I'm not promoting illegal behaviour, although the Premier once said it's only human nature to try to evade taxes, and that's sort of okay, he said.

Mr Bradley: Who said that?

Ms Churley: Premier Harris said that. I'm certainly not saying I condone people breaking the law. I am saying it's already been proven that people will break the law.

Mr Bradley: Did he set up a 1-800 line to catch tax cheaters?

Ms Churley: No, I haven't heard of that 1-800 line to catch the tax cheaters.

I know who you're caving in to on this one. I understand politically what is going on. Some of you are from regions where either it's not an issue or you feel very strongly that it should be up to the region. In that case, it seems to me, it should have been looked at a little more carefully, and perhaps there would have to be different solutions in different regions. I know that gets very complicated, but I believe this is an example where you have a cookie-cutter kind of solution to a divisive and controversial issue. It's just going to create more havoc and more problems in at least the bigger urban areas in Ontario.

I really wish you would consider reversing your position on this. I know you've been told by the minister to support everything, told by the Premier's office, and you have to do that. I regret that.

This is what really bugs me. You're the people who have been sitting here, and I've been sitting with you through most of the committee hearings, and we've all learned an awful lot—I've learned an awful lot and still have a lot more to learn—by listening to people coming in telling us what the real world is like out there as we sit around creating policy and trying to come up with solutions to very difficult problems. We've had people come in here day after day after day telling us that this isn't going to work, that it's a problem.

The people who have told you how to vote here today have not heard any of that. It's not just a problem with your government. I think it's a bit of a problem with our form of democracy at this point, where the actual backbenchers in opposition who hear all of the pros and cons of so many new bills and regulations being brought in really have no input at the end of the day into the changes. That's too bad, because I believe compelling arguments were made about why we need to keep the existing bill in place.

Mr Jean-Marc Lalonde (Prescott and Russell): I recognize the importance of having basement apartments at times, and that to get affordable housing it's good to have an apartment in your basement where affordable housing doesn't exist at times. But I also recognize that this had created a real chaos to municipalities: parking, traffic, services capacity. There are municipalities that have a freeze on construction, but when this bill came into effect the municipalities didn't know what to do with it. I think the mechanism is in place for the municipalities and for the people if they want to change the zoning to

permit, or it could be indicated in their official plan too, that they don't have to proceed with a zoning change as long as it is indicated in the official plan that they could proceed, and then the municipality has full control over it. I will be voting against this amendment.

1640

Ms Churley: I just want to comment on the comments made by—Mr Lalonde. As one of the deputy speakers, I should know you all by now, but I know you by your ridings, not by your names.

Mr Baird: He's not Deputy Speaker Morin.

Mr Bisson: No, she said "as a deputy speaker."

Ms Churley: As one of the deputy speakers. My day will come. I'll be the Speaker one day.

Mr Bisson: That's not a job I aspire to. I'd have to rule myself out of order.

Ms Churley: Indeed you would. Coming back to—

Interjections.

Ms Churley: Sorry I provoked all this, Mr Chair, I really am.

I appreciate Mr Lalonde's point of view on this and I know what he's saying, but it's funny to say that in the context of this bill, because this bill promotes urban sprawl; it really does. Everybody knows by now—it's been well documented—that those are the areas where we have problems with servicing. I know this government is looking at the development charges, and we're going to have real problems financing the urban sprawl that will happen as a result of this bill. That's a much bigger concern than problems that sometimes are there when too many secondary apartments are created. My experience has been—and again I admit I'm speaking from a particular perspective, in the city of Toronto; I know it's different in rural areas, but I don't think this is such a big problem in rural areas—that most people who live in basement apartments don't have cars because they can't afford them. Although I would concede that there may be some areas where it is a problem, I think that's a red herring. If we were really concerned about servicing land and the cost of that, we'd be much more up in arms, as I hope the Liberal Party will be, as we are, about how this bill promotes urban sprawl.

Mr Bradley: Ms Churley is correct in saying that I will not be supporting the motion by the New Democrats on this. I recognize that her statement that this legislation in total will tend to promote urban sprawl is true. There are many components of it that will and will discourage the kind of redevelopment in a downtown area, for instance, that I think is essential. If you walk into virtually any downtown in Ontario, you will find that it is something less than you'd like it to be, and much of that can be attributed—although not all of it—to individual councils across the province being attracted to suburban commercial development, by and large, as opposed to downtown redevelopment.

We were in Hamilton the other day. Hamilton at one time had a thriving downtown area. If you were to walk out of the building in which we held the hearings, you would find, I'm sure, that the local councillors in Hamilton would not be entirely satisfied with the way things are now. The same can be said in my own community of St Catharines, where the downtown has many empty

stores and many empty office buildings. A good part of that I attribute to, over the years, the permission for various developments taking place on the periphery of the city. Even today there are people endeavouring to have more developments on the periphery of the city or in the middle of the farm land, which I think are detrimental to downtown areas. I don't think we should be encouraging them.

In this specific case, the way this has been handled by the governments in the last while at least, and I suspect this government will be the same, is that there is a housing mix developing now. You very seldom see any more a full development come into a community that has exclusively single-family homes. That was an accepted way in years gone by, that there would be single-family homes. Costs have largely dictated now that there be a mix of housing within developments. Communities ask for that, the province encourages it, the Ministry of Housing has encouraged it, that there be a mix.

The difference is that the people moving into these neighbourhoods are aware and make their purchase based on the fact that they know the neighbourhood. I think people want to have a trust in laws and bylaws that exist. I apply this, I must say, equally to commercial and industrial zoning and business zoning of all kinds, as I do to zoning for higher density. When I was on municipal council, I detested people who would come in and want to rezone for commercial purposes in an area that was clearly not for commercial purposes, and start a commercial strip along a residential street and it ended up being entirely commercial.

I think people, when they make the purchase of a home, do so based on the laws. They look at the laws. They say: "Okay. This is the neighbourhood I have chosen. I want to have a larger lot. I want to have a larger home. I prefer a single-family neighbourhood where there's going to be less traffic, less congestion, and I'm prepared to pay more for it." To be fair, in some cases it isn't a choice of being able to pay more, but instead of having perhaps additional money going to a vacation or nicer vehicles or better furniture or whatever one wants to spend money on, recreational activities, cultural activities, one chooses to spend more of one's money on a neighbourhood in which one wishes to purchase a home.

It's difficult, because I understand those arguments and I'm not without feeling for that. I think some communities where this is a problem have recognized it and are solving it with the basement apartments or with the apartments in homes, as they say.

One of the problems in older neighbourhoods—and I'm not saying it cannot be remedied, but one of the problems is in fact parking when you get into those neighbourhoods. You get a lot of new people in one accommodation, and the streets weren't built for it originally; the driveways, the parking areas were not constructed for it originally. That becomes a problem. It becomes a problem with water services and sewer services. It becomes a problem with educational services—all kinds of problems, because this wasn't planned in the first place. I think that's where the advantage is for the new developments that are a mixed development, because they do take into account all those needs—and of

course there are development charges in those areas too, to cover some of those costs. I just wanted to get that one in because I know your government is going to be dealing with development charges as well.

I would prefer to see this left to the local municipality. I would prefer the province to continue to encourage municipalities to develop mixes of housing. Municipalities also have the opportunity to go through an exercise, where there's a neighbourhood in transition and there's an acceptance of it, to go into a neighbourhood and say, "We would like to plan to rezone this, and perhaps we'll need an amendment to an official plan." They can go into this neighbourhood and say: "Here's the reality in 1996. We know the neighbourhood was built in 1936, but in 1996, here's the reality." They can talk to the people in the neighbourhood, and it may be that transition takes place, with the acquiescence of the people in the neighbourhood.

In a difficult issue, on balance I would come down on the side of the people having trust in existing bylaws when they make a purchase. There's nothing people feel more betrayed by, when you're a municipal politician, than when you come in and find the laws are going to be changed under your nose after you've made this particular commitment, after you've made this particular choice. But I do encourage the government to provide ways of encouraging redevelopment of downtown areas, on a neighbourhood basis, and in the new developments that take place.

1650

Mr Bisson: I don't want to go on this for a whole bunch longer, but I want to make the point—because I think it's important for the record and I think it's important that we understand what we're doing here—it's not just strictly the question that the government is saying it will allow municipalities to decide if there are going to be apartments in houses. That's the one issue. The other thing that's tied to all of this is that by the government saying it's going to do this in addition to not having to adhere to provincial policies, it's really putting the housing market in a bit of a funny situation.

You may or may not know this, but one of the provincial policies that was actually adopted under the Liberals—I found this out through a couple of good development friends of mine—which was a good policy, was that they basically said that—and I might be a little bit wrong on my numbers—30% of the housing built in a subdivision had to be affordable to the bottom 60% of those people with income levels. That was a policy that was set up by the Liberal regime in order to be able to recognize that as we move forward and develop our communities and subdivisions, we have to make sure that we have mixed housing. On the one hand, the government says, "You don't have to adhere to that policy. You only have to have regard for it." Then the second thing you say is, "Now we're going to further block it by saying that you're not going to have the ability to do apartments in houses."

I don't want to be provocative here, but I don't really know if you realize what you're doing here. There was a good reason why the Peterson government moved forward with that proposal. In talking to developers like Melrose Heights subdivision, Lionel Bonhomme, a good

friend of mine, by dealing with people like Barry Martin from Martin Development up in my area, they recognize—and certainly they weren't Liberals. I would say Mr Martin was.

Ms Churley: They weren't NDP.

Mr Bisson: Mr Lionel Bonhomme became a New Democrat actually, I would say.

Mr Bradley: Oh, there it is. After you started accepting corporate donations.

Mr Bisson: That's right. I say he's a New Democrat; I really don't know if he is or isn't. I know that we have a good relationship. But the point I'm getting at here is, those developers understood that they have a responsibility when it comes to developing housing in our communities. It is not just good enough for us as a province to say, "I'm going to give you a blank cheque in order to develop your land to the best ability of you making a buck." The provincial policies said, and you had to adhere to them, that there has to be some thought put into what units are going to be built in that subdivision and who can afford to move in there. You have to allow for that mix, because if you don't, you really end up in a situation where you don't have the society mixing among the different classes to the degree that you need to if you're going to build the kind of understanding we need in our society. I think there is one issue here which is that I don't think you really realize what you're doing for the social good and for the ability for the classes to be able to mix and be able to build a stronger community by having better understandings between the lower and the higher classes.

The other thing I would say is that if you're really going to be driving into the ground the whole idea that if I want to be able to develop an apartment in my house and the municipal council, because I live in a particular subdivision, doesn't want to allow it, I'm going to have to do it basically on the black market. That's how I'm going to have to do it. That's how it's happened in this province for years. I forget the exact number. You might be able to help me. How many illegal apartments do we estimate were being built prior to Bill 120? Do you remember the numbers? Remember, there was an estimate. If you could just come to the committee and identify yourself.

Mr Rob Dowler: Rob Dowler, Ministry of Municipal Affairs and Housing. The estimate that we came out with at the time that Bill 120 was introduced was 100,000 illegal apartments in houses across the province. About half of them were in Metro Toronto.

Mr Bisson: Thank you. Bill 120 tried to recognize that that activity was happening anyway, and if we were going to deal with it, we had to find some way of bringing those units into some standard in order to protect the people who live in them. The second issue is one of safety. It's going to happen anyway. You could make it illegal if you want, but there are going to be plenty of people in the province of Ontario after this bill is enacted who will go forward and put apartments in their houses. It'll happen in Grey, it'll happen in Hamilton, it'll happen in Niagara Falls, it'll happen in Timmins, it'll happen in Riverdale, because people need to do that to be able to pay their mortgage, more and more so. I would say that with the way our economy is going, if I own a home in

Riverdale or in Timmins and I'm a provincial employee and I lose my job, or I work in the private sector and I lose my job, I'm probably going to have to do that a whole bunch more. I would say, on a safety point, that what you're really doing is you're going to push back, you're going to end up encouraging people to build apartments that are not inspected by municipalities and are not built to some standard of safety when it comes to fire and other issues that I think we need to be concerned with.

The third thing I would like to speak on, again for the record, is the whole question of how we care for seniors in regard to the long-term-care system. Your government has turned back one of the most progressive pieces of legislation that had to deal with long-term care. You may not like it, but that's just the way it was. You're now going to introduce legislation this spring that is going to allow long-term care to develop in a system that has a much larger private sector component to it, and if you're telling people that you want them to be able to care for their seniors and for us to take care of our own responsibilities to a certain extent—and I know that you're not doing that entirely, but that's the direction you're going to—you're going to have to allow people to build granny flats. How else am I going to be able to take care of my mother? I've thought about it myself. My dad is 69, my mother—I won't say her age, she'll probably never forgive me, but needless to say she's over 65 and under 70. Thanks, Ma. But the point is that if something, God forbid, should happen—

Mr Bradley: I'm sending the Hansard to Cochrane.

Mr Bisson: Thank you. Cochrane South, that is. But the point I'm trying to make is, if my mom or father, God forbid the day happens, passes away and one of them is not able to live on their own, my choice is I would rather not put them in an institution. That's where I'm at. That's where my psyche's at. As long as I can, I will try to provide for my parents because I think that's what I want to do from the family perspective, but I won't be able to do that if I'm not allowed to put an apartment in the basement of my home.

I have a brand-new house that I built some six years ago, and the way that I constructed my house, it's a sloping lot to where you can walk out of the basement, out of the back part of the house. I divided the house in such a way, when I constructed it, that I would be able to put a granny flat into that house so that I can care for my parents or my wife's mother, should the need arise, because I think to a certain extent that's what they would want, and if that's what they want, I will try to help them. But if you make it illegal for me because my municipality says, "We're not going to allow granny flats to happen," you're really putting me in a position where I'm going to be forced to probably put my parents or my mother-in-law, God forbid that it should happen, into a long-term-care institution. I don't want to do that until it's time to do that.

That will not happen in all cases—I don't want to be extremist here—but it will result in some children being given no other opportunity but to put their parents into a long-term-care institution way before their time. That doesn't serve the taxpayer well, that doesn't serve the senior well and I don't think that serves the family well.

I would just repeat that point once again, because the reality is that I don't mind taking in my mom and dad or my mom or my dad, but I don't want put them in our house in the three-bedroom part of the house that we have. They want their privacy. They don't want to be bothered by the grandkids at that point, or whatever, when they need their privacy. They have to have a place that they can call their own home. I think that's one of the effects.

The last thing I would just come back to, and I'll end it on this point, is that if the Conservative Party, the Reform Party of Ontario, really believes—

Interjection.

Mr Bisson: I know; I'm saying you're the radical right.

Mr Bradley: They have joint meetings in Ottawa.

Mr Bisson: Yes, that's the way it goes.

Interjection: It would be a big caucus.

Mr Bisson: Listen, you would be a big caucus.

Mr Baird: It wasn't a joint meeting.

Mr Bisson: You guys would get official opposition if you came to that conclusion, in Ottawa anyway.

But the point is that if you really truly support the notion of being able to support the individual to make a buck and to advance their plight in the economy, I can't see how you'd vote against this. The only way that people are going to be able to afford to buy a house, because of the price of developing homes nowadays in many cases, is by allowing them to be able to put an apartment in their house. I think there are going to be plenty of examples where some people will not be allowed to—I shouldn't say allowed—will not be able to buy a house on that basis. I think we all know that situation in our own riding. It's not every neighbourhood in my community where the council will put an objection, but there are a sufficient number of neighbourhoods in my community—as in yours, Mr Baird, in Ottawa—where the municipalities will make the apartments in houses illegal if they're given the opportunity.

I ask you to reconsider. I think really it's a problematic approach that you're taking. Again, in an ideological zeal to be able to deal with your political interests, you're really going against the whole notion of common sense, in quite the opposite direction.

1700

The Chair: Any further comments? Seeing none, I'll put the question. All those in favour of the amendment? Contrary, if any? I deem the motion to fail.

Ms Churley: Recorded vote.

The Chair: Too late, Ms Churley.

Ms Churley: Unanimous consent?

The Chair: Is there unanimous consent that there be a recorded vote? Agreed.

Ayes

Bisson, Churley.

Nays

Baird, Bradley, Carr, Fisher, Hardeman, Lalonde, Murdoch, Smith.

The Chair: I deem the motion to fail.

Is there any further discussion on section 8? I'll put the question.

Mr Bisson: Just before we move on, just for the sake of democracy, I would really like to know what the government members think about some of the issues that we're—

Ms Churley: Oh no, that's okay.

Mr Bisson: Do they have any opinions or are they only listening to the people in the centre office of cabinet?

Mr Bradley: When you're in government, you don't have opinions.

Mr Murdoch: Hey, give us a chance.

Interjection: We haven't had a chance.

Mr Bisson: I'm giving you the chance. You have an opportunity.

Mr Murdoch: Why don't you shut up for a while and give us a chance?

The Chair: I'll put the question now. All those in favour of section 8? Contrary? That section passes.

Section 9. Are there any amendments, comments or suggestions?

Mr Bisson: We have an amendment to section 9 of the bill, subsections 17(9) to (12) of the Planning Act.

I move that subsections 17(9) to (12) of the Planning Act, as set out in section 9 of the bill, be struck out.

It comes back again to the argument two or three sections ago where we talked about the power of the minister. What's happening with this particular section of the bill is that we're going to be saying that the minister will relinquish the power to approve plans passed by upper-tier municipalities. The argument I would make, not to get into a very long argument, because I think we made it before, is that I think the minister has to be able to keep some power to be able to deal with what is important for the provincial interest. I guess this is going in the direction that the government believes in less government. The government believes in less what they call intrusiveness of the state when it comes to economic development issues or the economy.

I would say that is not the history of what this country's about. The history of Canada has always recognized that the state does have a responsibility. The state has a responsibility in order to be the advocate for the community of interests within our society, to make sure that our rights are protected, to make sure that the policies that we set through our governments are adhered to. Again, this is just another example where the government is saying, "We're going to pass on our ability as a province to be able to decide what public policy should be on some of these issues."

Ms Churley: I have a question for the parliamentary assistant. We're dealing with subsections 17(9) to (12). I just don't quite understand the reasoning behind this. Could you explain what prompted the government to do this particular thing?

Mr Hardeman: The government's position on this part of the bill is part of the streamlining process. We deem it appropriate when the municipalities have an official plan that has been approved by the minister and he then has the ability to grant them the authority to exempt them from further approval as they change that

plan, provided it meets the policy statements of the ministry. If the official plan that is being approved by the municipality does not meet the policy statements of the province, the province has the ability to appeal that process. This, in our opinion, will eliminate the need for a lot of travelling back and forth from municipal government to the provincial government and have official plans lying on shelves gathering dust while development is waiting for those approvals to be dealt with.

Ms Churley: Are you saying that if the province approves the upper-tier plan, the policies within the plan must be consistent with the provincial policy statements for the exemption, in order to exempt?

Mr Hardeman: The official plan must have been prepared according to provincial policy statements of the day.

Ms Churley: Must it be consistent with provincial policies?

Mr Hardeman: A county or a region that presently would not be immediately granted the exemption from the ministry's approval would have to prepare a new official plan based on the "shall have regard to the provincial policy statements" in their first plan. The minister would have to approve that plan and would have to be satisfied that the municipality warranted it, not only through the official plan that was sent to the ministry but their ability to deal with the planning functions to the satisfaction of the minister. He could then delegate the authority to them to exempt them from approval from the minister.

Mr Bisson: I have a question. Maybe the parliamentary assistant can just walk us through this. Subsection 17(10), in section 9 of the bill, says, "The minister may by order authorize an approval authority to pass a bylaw...." So what you're basically saying there is that the minister can go to the city of Timmins and say, "You will put in place a bylaw that gives you the power to deal with your own official plan." Am I right?

Mr Hardeman: That is the bylaw to delegate the authority from the upper to the lower tier; that can be done by bylaw. So the approval of the lower-tier plan in a jurisdiction with two tiers—where the upper tier has the exemption from the minister, they may by bylaw grant that exemption to the lower tier. They do not require approval of the upper tier for the lower-tier plan.

Mr Bisson: I'm not so sure that's the way I read it. I'm just going to try this one more time. Let me just give it a shot here. It says, "The Minister may by order authorize an approval authority to pass a bylaw exempting a plan or proposed official plan amendment from its approval under this section." I would read that to mean that if I am the minister, I can give the power to a municipality like Timmins, which is not a two-tiered municipality, to deal with its own official plans.

Mr Hardeman: I had the answer for you, Mr Bisson, but now that I've got the clarification, I'm with you and I'd like legal counsel to answer it.

Mr Bisson: Okay, that's fine. I don't expect you to have all of the answers to this.

Ms Churley: Oh yes, he should. He's the parliamentary assistant.

Mr Hardeman: I have, but they disagree with me.

Mr Bisson: Before you go, the difference between a parliamentary assistant and a minister is about \$25,000 a year. So you shouldn't know everything. Yes, please.

Ms Ross: Elaine Ross, legal services, Municipal Affairs and Housing. Subsection 17(10) gives the minister the ability to authorize an approval authority to exempt official plans. An approval authority is a municipality that has the ability to approve the official plans of another municipality. So that would usually be an upper tier approving a lower tier's official plans, not its own.

Mr Bisson: So it wouldn't apply to a single-tier municipality, then?

Ms Ross: No.

Mr Bisson: Okay. That was my concern. If you move on to subsection 17(11), just so that I understand that correctly, that particular subsection gives the minister the ability to decide what's going to be in the bylaw that gives the lower-tier municipality the right to approve official plan amendments.

Ms Ross: It gives the minister the ability to impose conditions—

Mr Bisson: In the bylaw.

Ms Ross: —on the municipality as opposed to writing things in the bylaw. A municipality writes its own bylaw. A municipality can put conditions in the bylaw, and the minister can also put conditions in the order. So there are two different sets of conditions that can occur.

Mr Bisson: Just so that I understand this properly: You have a two-tier municipality; we're going to pass on to the lower tier the ability to make amendments to its own official plan; the minister could set conditions that would be in the bylaw that would be passed by the upper-tier municipality.

Ms Ross: Yes. The minister could perhaps not write what was in the bylaw, but the minister could say, "I'm going to give you the power to exempt official plans if you do X and Y," and the upper tier would have to do X and Y before it would have the ability to exempt the lower tier.

1710

Mr Bisson: I guess this is where this takes me now; this is the problem I'm having with this. Let's say that supposedly happens, but the upper tier doesn't meet those conditions afterwards. Where's the minister left then?

Ms Ross: They wouldn't have the power, because the power is subject to those conditions. So presumably when they exercise it, it would be invalid, their actions would be invalid.

Mr Bisson: So it would be invalid then. That was my concern. Thank you.

Ms Churley: I just want to say, not surprisingly, that I think this is a mistake. In regard to the official plan, the quality control measures have been removed by this government. It's my understanding that even the definition of official plan has now been removed, deleted, and that official plans can be easily amended. I'm voting against this for a variety of reasons, but again the major reason is because, I suppose as I put it before, quality control has been removed around official plans.

This is setting a very dangerous precedent. I think it's going to remove the province even further. Back to the old "be consistent with," I think it's even more important

that those kinds of controls around the official plan be there. I think it just adds to the municipalities perhaps being given a bit too much freedom, and not just freedom, but the guidance that would be there with a definition of official plan, the kinds of quality controls that are being taken away, which is going to impact on the community and environmentalists and even developers having a say in what's going on. I wish the government weren't going to do this.

Mr Bisson: I've got to go back to this because this gets more bewildering after I read subsection 17(12). I thought I had it down straight in subsections 17(10) and 17(11), but then you get into subsection 17(12) and it gets a little bit more confusing.

What we were saying through subsection 17(10) was basically that the minister can authorize an upper-tier municipality to grant exemption to a lower municipality in regard to its official plan, right? Okay. Then we go on to subsection 17(11) and we say the minister can then give direction as to some of the conditions that they have to meet to be able to get that power. Right? That's what subsection 17(11) does.

Mr Hardeman: Yes. The minister, in his direction, in authorizing the upper tier and giving them the authority to approve lower-tier plans, could include in that direction what the upper tier must put in place for the lower tier to be granted that authority.

Mr Bisson: Yes, exactly. But then when you read subsection 17(12), "The minister may by order or an approval authority"—which would in this case be the upper-tier municipality, am I correct? When you're talking about the approval authority, it would be the upper-tier municipality in subsection 17(12)?

Mr Hardeman: I was just reading.

Mr Bisson: Yes, go ahead. Read it. Just read it.

Mr Hardeman: The minister may grant those authorities. The minister may also remove those authorities.

Mr Bisson: Okay, but this is what I'm getting at here. "The minister may by order"—and when we're talking approval authority, we're talking about the upper-tier municipality, right? That's what we're talking about.

Mr Hardeman: Yes.

Mr Bisson: "...may by bylaw, accompanied by a written explanation for it, remove any exemption made under subsection (9)." Do I understand that to mean that if I'm the Minister of Municipal Affairs and I grant the upper municipality the ability to pass a bylaw giving the lower-tier municipality the ability to grant its own official plan, the upper-tier municipality then can go against what I wanted them to do in the first place? That's how I read that, unless I misunderstand it.

Mr Hardeman: No, I think the intent of that section is that if the upper tier, over a period of time, did not adhere to the direction of the authority they had received, the minister could remove that authority.

Mr Bisson: But it says is that the upper-tier municipality could "by a written explanation," I take it to the lower-tier municipality, "remove any exemption made under subsection (9)." Do you follow my drift, where I'm getting here?

Mr Hardeman: I think the removing of the exemption is in fact taking away the authority they got. It's not

giving them something; it's exempting them from the approval.

Mr Bisson: Here's where we separate company. Does that mean to say that the upper-tier municipality can take away the power that the ministry gave? That's how I read that.

Mr Hardeman: No. The minister never gives that power or never exempts the lower-tier municipality. The minister exempts the upper-tier municipality and can give direction as to the requirements for the upper tier to exempt the lower tier.

Again, going back up the other way and removing those exemptions, the upper tier can remove the exemption they gave to the lower tier and the minister can remove the exemption he gave the upper tier. Also, when the minister removes the exemption from the upper tier, that automatically would remove the exemption from the lower tier.

Mr Bisson: I guess where I'm having the problem here—and again, what we're saying in subsection (12) is that "the minister may by order or an approval authority"—which is the upper-tier municipality—"may by bylaw, accompanied by a written explanation for it, remove any exemption made under subsection (9)." But the exemptions might have been what the minister wanted in the first place. So what you're saying to me is no, an upper-tier municipality could not afterwards remove the power that the minister gave in the first place.

Mr Hardeman: I think the minister exempts the upper tier by order. The upper tier then can exempt the lower tier by bylaw, with written explanations. If the upper tier wants to remove that exemption from the lower tier, they can do that, any exemptions granted under the other sections.

Mr Bisson: Even if the minister doesn't approve.

Mr Hardeman: Yes. The upper tier would have the authority to do by bylaw for the lower-tier plan the same as the minister has the authority to do to the upper tier by order.

Mr Bisson: I think I've got this figured out. In other words, the minister cannot on his or her own exempt a lower-tier municipality.

Interjections.

Mr Bisson: He can? Now I'm confused.

Mr Hardeman: The only exception to that would be, if the minister is the approval authority for the lower tier, then the minister can exempt that lower tier.

Mr Bisson: You follow where I'm having my problem, I take it, legal counsel? No? Answer me this question. If you have a two-tier municipality and the lower-tier municipality does not have the right to make amendments to its own official plan, can the minister decide to give that power to the lower-tier municipality? Can he force the upper-tier municipality to do it? That's what I'm asking.

Mr Hardeman: No.

Mr Bisson: No. Okay, that makes a little bit more sense. So you have to go through the upper-tier municipality. The request would come from the lower-tier municipality, they would lobby the upper tier and at the same time the province; that is the way the process would work. If the upper-tier municipality is in agreement, the

minister or the upper-tier municipality can grant that power. But the minister cannot grant it on his or her own.

Mr Hardeman: You're right in your assumptions. The exception is where the upper tier presently does not have approval authority; there are regions that do not have upper-tier approval authority, and the minister could deal with the lower tier, in those cases, with the exemptions.

Mr Bisson: That's interesting. But in the cases where the upper tier has the power, the minister cannot grant the approval to the lower tier without the upper tier agreeing. Am I right in assuming that?

Mr Hardeman: No. The requirement, the criteria—

Mr Bisson: I understand that, but the same coming back the other way, then. If for some reason the lower tier does not deal well with its new responsibilities, can the minister then take that power away if the upper tier wants the lower tier to keep it?

Mr Hardeman: No. The minister's ability to deal with that would be through the upper tier. "You're not dealing with your responsibilities as you should. Unless you do, we would remove your ability to exempt."

1720

Mr Bisson: So you would exempt. In the case where the upper-tier municipality doesn't have the ability to approve its own plan, what you're saying is the minister could grant the lower-tier municipality the ability to do that, even though the upper tier doesn't.

Mr Hardeman: If the upper tier does not have the approval authority presently, it's possible. I would note that it's designated in the bill that this authority presently in the bill is only granted to those municipalities or those upper tiers that have the ability and have the present official plan in place. The intent of course is to prohibit or to regulate where that authority will be or where the exemption will be granted to those as they prepare the appropriate official plan.

Mr Bisson: I understand the logic. Just the last part of this, and the very, very last part, is that the logic here is that if an upper-tier municipality, such as Sudbury, which doesn't have the right to grant an official plan—I think that's the case, but let's say it was—and you wanted to give Sudbury the ability to do so, if the upper-tier municipality, the region said, "We don't want it," there's nothing they can do about it. The minister could grant it to the city. Right?

Let me try it again without giving an actual community. You've got an upper-tier and a lower-tier municipality. The upper tier doesn't presently have the ability to make amendments to its own official plan. The city wants to have, in this case the lower-tier municipality, the ability to do so, but the upper tier tries to block it. The upper tier couldn't block the ability of the lower-tier municipality to get that exemption from the minister. Right?

Mr Hardeman: Yes, they could. If presently the region is not the approval authority, then they could not stop it.

Mr Bisson: That's all I wanted to know.

The Chair: Any further comment?

Mr Bradley: What do the government members think of all this?

The Chair: I'll put the question.

Mr Bisson: Can I just quiz the government members on this section?

Ms Churley: A recorded vote.

Ayes

Bisson, Bradley, Churley.

Nays

Baird, Carr, Fisher, Galt, Hardeman, Lalonde, Smith.

The Chair: I'll deem that motion failed. Are there any further amendments to section 9?

Mr Hardeman: I move that subsection 17(10) of the Planning Act, as set out in section 9 of the bill, be struck out and the following substituted:

"Authority to exempt

"(10) The minister may by order authorize an approval authority to pass a bylaw,

"(a) exempting any or all plans or proposed official plan amendments from its approval under this section; and

"(b) exempting a plan or proposed official plan amendment from its approval under this section."

Mr Bisson: I take it this comes right back to the debate we just had. You're clarifying. Back to the quiz, guys. Pay attention. All you're trying to do in (10) here is to clarify what's presently on page 5 of the bill, subsection (10). Right? It's a clarification, is what you're trying to do.

When you talk about "its," who is "its"? The lower tier? In clause (a) and clause (b), you say, "from its approval." Just so I'm clear here, who are we talking about? "It" is the lower tier. Right?

Mr Hardeman: The exemption for all plans or proposed plan amendments from its approval would be that the upper tier could exempt the lower tier from its approval. The approval authority is granting the exemption, so the upper tier would not have to approve it.

Mr Bisson: Can I ask legal counsel something here? This might sound like a bit of a funny question, but I am being serious here. Why can't we write this stuff in much more plain language? Seriously.

Ms Ross: We always do our best, but it's complex.

Mr Bisson: Is it a way of protecting your profession or what? No, I'm just wondering why that is.

The Chair: Mr Bisson, could you phrase a more specific question rather than a philosophical one.

Mr Bisson: I'll be specific. When you're saying "exempting any or all plans or proposed official plan amendments from its approval under this section," why not just specifically mention the upper tier? Is there a reason, or it just makes it shorter?

Ms Ross: Throughout the section we use the term "approval authority," and that's because otherwise you'd be listing the minister and a lot of different regions. There's a variety of different approval authorities set out in subsection (1) and subsection (2), and you'd have a great long list that you'd have to keep repeating throughout the act. Actually, it's supposed to make it easier to read to use one term, "approval authority," and then you use that throughout the section.

Ms Churley: Can I just ask what has changed? I think we're all getting a little tired here, and I'm having a little trouble understanding the differences. What are you

trying to achieve by this amendment? It's fine if you want legal counsel to respond.

Mr Hardeman: The amendment is to clarify, to get consistency with the sections, that one gives the same authority as the other, from 17(9) and 17(10) in the act.

Ms Churley: What was inconsistent there? I just want to know what I'm voting on.

Ms Ross: In subsection (9) the minister has the ability to approve a particular official plan or a plan amendment or a group of them. It could be any or all official plan or plan amendments. They could give a blanket exemption to a municipality, in other words. That wasn't clear in subsection (10), so this is to make it clear that an approval authority could either approve a particular plan or plan amendment or could give a blanket exemption to a municipality. It could be for a particular area of the municipality or it could be all of their official plan amendments, whatever they chose.

Ms Churley: Could I ask the parliamentary assistant what conditions would have to be in place for the minister to be able to make the approving—I guess it's discretion and in some ways arbitrary.

Mr Hardeman: I think it's clear by the act that the authority that's being granted to the regions and the counties presently is based on having an official plan that was approved by the ministry and having the capabilities of administering that plan.

Ms Churley: But the official plan is not even being defined any more. I guess I'm getting into a whole other area here.

Mr Hardeman: I think it must be recognized that the approval authorities mentioned in the bill that would get the exemption at the present time have an official plan that has been approved by the ministry as meeting the policy statements of the province.

Ms Churley: Ah. Consistent with.

Mr Hardeman: We are convinced that the future plans that will be approved and have due regard to the provincial policy statements will achieve the same goal in good planning as the ones that have presently been approved, that are in existence. I would also suggest that the majority of the plans that are in existence today for the approval authorities, or the ones that we're referring to giving the exemption, were approved under the "shall have regard to" as opposed to the "shall be consistent with."

Ms Churley: So before the approval of these official plans, the draft plans would be looked at in the context of whether or not the region looked at, had regard for the provincial policies. Would you need some kind of proof that they did have regard for more than just looking at it and tossing it aside? Before approving the plan would you need to have some evidence that in fact the—I'm losing it. I really have lost it.

1730

Mr Bradley: The planner from the city of London—

Ms Churley: Just give me a moment. It will come back.

Mr Conway: Those long winter nights up in Labrador.

Ms Churley: That's what it is. Happy Valley, Labrador.

Interjections.

Ms Churley: Okay, guys, just be quiet so I can get this back here.

Mr Conway: As they say on the CBC, "One moment, please."

Ms Churley: What I'm trying to get at here is—"policy" is the word that went out of my head at that moment—would they have to show, in having regard for the policy statements, that they more than just picked them up and tossed them aside, that they actually tried to incorporate these policy statements into their plan? I'm really coming back to, in my view, the centre of this whole new act here, and that's "be consistent with" and "have regard for." It seems to me in a way you're saying here that for the minister to approve those plans they do have to be consistent with provincial policy, whatever that may be. Is that correct?

Mr Hardeman: Yes. I think the present ones that would be given the exemption for approval of their own plan have plans in place that were approved by the minister at a previous point in time. As we look at further exemptions, it would require the original plan, the first plan, to come to the minister and it would be judged by the minister and the ministry as to whether it does have due regard to the provincial policy statements.

Ms Churley: How would you judge that?

Mr Hardeman: In other words, the results of that plan would, in the opinion of the minister, have to achieve the policy direction of the provincial interest.

Ms Churley: You see, this is where we come back to—as Mr Bradley said, we don't have the policy statements yet and how they're going to be applied is just so vague that it seems to me it could be really arbitrary in terms of how and why the minister approves the plan or not. That's where I have some real problems with this because we don't know how consistent and what kind of—the basis on which plans are going to be approved is not clear enough. I guess you answered my question in that they won't have to be consistent with, that there's no clear policy as to what has to be in that official plan or not. Part of the problem is of course the definition of what an official plan is. That's been taken out of the bill as well. I don't know if you have any response to that, but that's part of my worry about this.

Mr Hardeman: I'm not sure I have an answer. I would suggest that the reason the municipalities are preparing the official plan is to give direction as to how they see the development of their community in the future. It's important to recognize that the provincial review or the provincial agreement to that plan is based on whether that plan does have due regard for the provincial policy statements as the province deems appropriate to protect the provincial interest.

I think that deals with the ones that are in existence and that's the basis on which they were approved in the past and that would be the basis on which the new ones would be approved in the future. Those municipalities that presently do not have one would have to go through that first plan and have it approved by the minister prior to getting the exemption to approve future amendments to it or creating a new one beyond that point before they could make that decision based on having due regard for the provincial policy statements.

The Chair: Is there any further comment on this amendment? Seeing none, I'll put the question. All those in favour of this amendment? All those contrary? The motion carries.

Are there any further amendments to section 9?

Mr Bradley: Yes.

Mr Baird: I notice there are about 17 actually.

Mr Bradley: Is the Liberal one the next one? I think it is.

The Chair: Yes, it is.

Mr Bradley: This is regarding section 9 of the bill, subsection 17(16) in the Planning Act.

I move that subsection 17(16) of the Planning Act, as set out in section 9 of the bill, be amended by striking out "20 days" in the third line and substituting "30 days."

I recognize that there is an overall effort to try to speed up the process. My concern is—and I recognize that there have been some efforts made by previous governments, plural, to find ways of speeding up the process without having adverse effects on the process—Bill 20, by prescribing 20 days, hampers the public ability to participate in the planning process, in my view. The public is a key part of the process, both by providing information and by establishing legitimacy for decisions made by the public representatives. Leaving them out or impeding their ability to contribute means that decisions, I think it's safe to say, are less informed regarding local information and concerns.

I think everybody recognizes that some streamlining is positive, but the public process should not be curtailed for expediency alone. Getting the public thoroughly involved early on in the process reduces the possibility of costly and lengthy delays, appeals and conflict. I think that's something we have to decide on somewhere along the line. Having sat on a municipal council, I remember how annoyed people would be from time to time around the council table—

Mr Conway: Which century was this?

Mr Bradley: This was many, many years ago—annoyed with what they would consider to be vexatious complaints, but getting the public thoroughly involved, I think, does indeed reduce those conflicts down the line. If the public can get its information early, can put forward its information early, I think the public then by and large tends to not be involved in unnecessary delays, appeals or conflict. When you listen to some of the complaints about the bill—and there were some positive comments about it—there was widespread concern expressed on the part of citizen groups regarding the tightened time lines in Bill 20 and that it would not give them sufficient time to participate fully in the planning process.

Under this motion, a copy of the proposed official plan should be available to the public 30, not 20, days before a public meeting is held regarding the official plan. The public needs time to review proposals in order to prepare a response. Not everybody has the planning expertise that a professional planner might have or a lawyer who has a lot of information or a lot of experience in the field of planning or perhaps an urban geographer might have. That person often has to consult others who are expert, either on a professional basis or perhaps, more often than

not, on an informal basis. I think the 30 days—it's only 10 days longer, but it gives the public a little longer to be able to have that plan available, have that information analysed. I don't think that 10 days is going to cause great problems for those proposing the development. It is likely to cause more annoyance for those who want to question it.

Again, I get back to the fact that in the long run it may be that you will eliminate more concerns by having this additional time of 10 days available. I could have said two months. I don't think anybody on the government side would have accepted that, because of your determination to streamline, but I thought saying 30 days rather than 20 days might be more acceptable to the Ministry of Municipal Affairs and Housing. That is why I am putting forward the motion. I think it makes, as one would say, common sense and will make for a better planning process.

Mr Conway: I just wanted to use this opportunity, in supporting this particular motion, to make some passing reference to the submission made late yesterday afternoon by Mrs Virginia Berg. Some of you, many of you, actually, in the room were in London when Mrs Berg made her submission. I thought it was an extremely powerful submission and I refer members, if they haven't read it, to part of her brief which was "Our Personal Planning Nightmare."

1740

My friend from Oxford and my colleague from St Catharines, both of whom have been on local councils—I have never been. I read a story like this—and I grant that this is only one side of the story. A friend of mine actually works for this municipality. I should phone him and find out what the other side of the story is. But assuming that this is a reasonable submission, and I do, you look at this and say: How is this possible?

If you believe, as I do, in supporting the "have regard to," that there is some very real legitimacy in giving local politicians some real and some additional power, then the corresponding responsibility is that this kind of nightmare not happen. As I say, I find the Berg story almost incredible, but having said that, I think that Mr Bradley's amendment provides just a little more time for citizens who, as the Bergs discovered, can often be faced with enormous implications based on planning decisions made locally, about which they have little or no information.

I know Crosshill, I've been to Crosshill. Actually, it's a very interesting little place and I can't imagine that all this could be going on and people wouldn't hear about it, but Mrs Berg said yesterday that they were not made aware of a very significant development that was about to change their neighbourhood. So it seems to me that it's the Berg testimony that would not only make me want to support Mr Bradley's current motion but also—I may have missed this; I was out doing important business for a few moments—why, again, it seems to me you would want to give every opportunity for some kind of public meeting around a subdivision. My experience in provincial politics tells me that giving people lots of prior notice and an opportunity to come and hear what you're about to do to them, generally speaking, does move things along. So I cite the Berg testimony as one good

reason why we should support Mr Bradley's sensible, moderate amendment here.

Ms Churley: I just want to speak briefly to this because I think my colleagues to my right have expressed my views about this. I just want to read you, and remind you of, something that we heard, I think, in the first week of the hearings from the Lake of Bays Association. Now, I know some people in this room made fun of these people, at least privately to me, and said, "Well, they're cottagers; they live in Toronto and they have the cottages." There was almost a sense of, why should we have to listen to them? I was sorry to hear that, because these people have legitimate concerns, and the fact that they have cottages in the Muskoka region means that they are concerned about their environment and preserving the environment.

They're very, very concerned about this notice time being reduced from 30 days to 20. What they say is:

"Our next concern is the removal of the requirement for a public meeting for consents and subdivisions. It is our experience that many details may not be available during the OPA process. When details become available at the subdivision stage, it will be difficult, without a required public meeting, for the public to ensure that its interests are acknowledged. Consents create new lots for development on lakes. Cottagers understand that lakes have a finite capacity to accept additional development without sacrificing water quality. As absentee land owners"—and they admit that—"we are losing the opportunity to present our views at a public meeting and we may be losing our right to be notified regarding council meetings where planning decisions are made that can affect us significantly. At the same time, we have the responsibility to attend meetings where decisions are made to retain any appeal rights. It's hard to be at meetings we don't know are being held."

Throughout their document—and others have talked about the overall reduction of access by the public to the process. This is just one example and there are more amendments coming up to deal with the others. It really is a serious problem. I know that when we came forward with Bill 163, many of us would have preferred a longer period of time.

I believe that the public is being put up as the villain here and this is an example of that. Ten days either way in the whole process is not a big deal. I can assure you, and this came out in the hearings as well, that an awful lot of the delays are bureaucratic—not enough staff, being held up in various levels, all kinds of problems that crop up there. When you have a prescribed time, then this public access is going to be done within that prescribed time if the documentation is available. The public is being made the villain here in terms of so-called cutting red tape and reducing regulations that interfere with development. I don't think it's fair and I don't think it's accurate and I don't think it's going to really solve the problem.

So I really hope that you will agree to—for heaven's sake, 10 extra days here. Guys and gals, come on here. You've got to admit that in terms of what we're talking about here, reducing red tape, to make the public the villain when they participate in a very important way in

the process—I'm really disappointed in you guys. You can do—

Interjection.

Ms Churley: No, seriously. I'm really disappointed. You know better than this. It's not the public who cause the delays, at least in this area. If you have a prescribed time, that's it. It's ridiculous. It's absolutely ridiculous. Oh, oh, look who's in the chair now. I'd better look out.

The Vice-Chair (Mrs Barbara Fisher): Why?

Ms Churley: I'll tell you later. I don't think we have time now.

I just think that you can do better than this and I would suggest that you give the public that 10 days. Because it's really true, as people pointed out, if there are problems with mail service, people who are absentee land owners, long weekends—there are all kinds of problems that delay people getting information right then and there, and then to have to analyse that and prepare for it, it's very difficult. Give them the 10 days. At least make that concession, for heaven's sake. It would, I think, make a big difference, because there are a lot of people who are very upset about the reduction in public access, and believe me, it's not the problem.

That's what bugs me so much, and you know that, Ernie. You do. You know that this public participation stuff is not the problem. It is absolutely ridiculous. Go back and tell Al that there's miscalculation on this one, that you think, as a parliamentary assistant, from everything you heard, that that's not where the problem is; it's with bureaucratic tangles and all that kind of stuff. Ask him to agree to this. Would you do that? If you would, I'd ask the Liberals to hold off on their motion tomorrow so we can put it on the floor again and perhaps have you support it.

Mr Bisson: Just a question to the parliamentary assistant. Under Bill 163, what was the notice provision as far as timing?

Mr Hardeman: As far as—

Mr Bisson: In regard to this particular section, in regard to public notice, what was the notice requirement under Bill 163? I don't remember. Was it 30 days?

Mr Hardeman: Under this section in 163, there was no requirement of time.

Ms Churley: Oh, wasn't there? I thought it was—

Mr Bisson: That's what I was wondering. Part of the problem I guess I'm having through this process is that the idea of committee on the whole, as I see it, is to be able to take a look at what submissions we got as a committee and to make recommendations on how to make the bill stronger. The government is, in its own wisdom, saying, in this case there was no public requirement. I thought it was 90 days, but I stand corrected. Now they're suggesting that we go to 20 days. There's an amendment the Liberals brought to us today that says 30. Certainly to God, we can agree that moving that by 10 days ain't going to stop the planning process.

I would just be interested if the parliamentary assistant could tell us what his intentions are. Do you plan on supporting this? If you do, we'll vote on it right now.

Mr Hardeman: No, the government will not be supporting this motion.

Mr Bisson: For what reason?

Mr Hardeman: The intent of Bill 20 is to streamline the planning process to try and reduce the time it takes to get a proposal from the time someone has a vision to the time the project can either be denied or accepted, to get that number reduced. This amendment deals with the length of time between the time the amendment is made available to the person to peruse and look through and the time of the public meeting.

1750

As I have been involved in municipal politics and municipal government in the last number of years—it's been mentioned a time or two—I would point out that there are not many official plan amendments that have not been circulated and discussed and had a number of meetings prior to this stage where it's actually written in draft form to be presented for an official public meeting. There are many cases where the proponent and the municipalities have had great discussions with the neighbourhood as to the appropriateness of the development.

This 20 or 30 days does not preclude there being greater distance between the two. It's just that when the situation has been resolved, it's ready to proceed, this requires they must wait another 20 days before they can hold a public meeting.

Mr Bisson: Let me ask you this, then. Do you believe that bringing people together ahead of development is a way to prevent problems in the future with regard to approval, that public involvement is good?

Mr Hardeman: I think there is absolutely no intention in Bill 20 to preclude or to reduce public involvement.

Mr Bisson: You sound like my attorney. I'm asking a very simple question. Do you believe involving the public in the planning process can identify possible problems that we may have down the road and strengthen the application? Do you see public involvement as a good thing?

Mr Hardeman: Yes.

Mr Bisson: Okay. If you do that, then I can understand your logic if you were saying that under Bill 163 there were no time limits as to how long it had to be up, and the government can make a logical argument, in fairness to you, that there have to be some time lines applied to it. I accept that argument. If you want to put a time line, I understand. But 20 days, I think you understand, can be a bit of a problem for the amount of time people have to comment. The argument was made by both the Liberal members and by Mrs Churley from our—

Ms Churley: Ms.

Mr Bisson: Ms Churley—sorry—from our party made all the arguments around timeliness. The only thing I'm getting at simply is this: Here we are, a group of legislators coming to this committee to try to grapple with how we can make this legislation better and make it work in a way that's more efficient, and the government's not prepared to add 10 days to the notice provision? It boggles the mind. There's supposed to be a certain amount of give and take at the committee level.

Ms Churley: It's going to cause them a lot of trouble. You'll be sorry.

Mr Bisson: I can't understand why you wouldn't support that. What are we doing here if you're not going to agree that 10 days, on a motion that's put before us, that's not going to substantially change the intent of the bill—how am I going to believe you're going to listen to anything else we have to say? I guess that's where I'm coming from.

Mr Hardeman: Not that the government's position would be different on the next amendment, this amendment deals with the requirement not to give notice of the public meeting. This amendment deals with providing the draft official plan amendment to the public for their perusal prior to that public meeting. So the day the municipality would publish that document, they would have to set the public meeting at least 20 days hence. It's not public notice.

Mr Bisson: The idea here is that you make the plan available to the public so they can peruse it before they go to the public meeting. The idea is you don't want them to come in cold, not knowing what it's all about and having to waste a whole bunch of time trying to explain to people or give them an opportunity to look at the plan. We're saying that in many cases, there are a lot of people, for all the reasons we heard before, who may not have the time within 20 day to do that. All I'm saying—my frustration here—is if you as a government are saying, "We're not prepared to give an amendment of 10 days on this particular clause", how am I to believe you're going to listen to anything else the opposition has to say or what the presenters have—

Mr Murdoch: That's your problem.

Mr Bisson: No, it's not only our problem. There's a democracy here.

Interjection.

Mr Bisson: Yes, but there's not an amendment up to now that you guys have been willing to listen to. I'm a little bit frustrated. I understand you have the right to govern and I understand you want to move the planning decisions in this province in a particular direction. I may not like it, but I understand it and I accept the legitimacy of the process. But the legitimacy of the process dictates that there has to be some ability on the part of the government to listen to what presenters have to say and to have what they had to say come in and be reflected under the law. If even on this most basic point you're not willing to move, how are you going to listen to anything else?

Ms Churley: They don't, so why bother?

Mr Bisson: Is that nitro you're taking or an Aspirin?

Mr Conway: Such caterwauling.

Mr Bisson: I take it you're not going to comment.

Mr Conway: It reminds me of talking to the NDP about Bill 40.

Mr Hardeman: I would just point out that the—

Mr Bisson: No. Listen. I would say quite candidly to my friend from Renfrew that under Bill 40, we put that bill out to committee way before we even had—it was draft legislation when it went out. There was all kinds of discussion that happened both within the business community and the labour community.

Interjection.

Mr Bradley: I'll settle him down.

Mr Bisson: Yes, you'd better settle him down. But the point I'm getting at—

Interjections.

Mr Baird: Bill Murdoch has been so well behaved.

Mr Bisson: No, seriously, in all seriousness, listen—
Interjections.

Mr Bisson: Can you get them—please. The point I'm trying to get at here is that the Liberal government before us and our government when we were in place, when we went out on legislation—and, I would argue, the Conservative government before, because I presented to those committees—listened to what the public had to say and moved somewhat on what they heard and made the bill somewhat reflect what they heard from the public. I don't see that happening in this committee process. I question the legitimacy of our democracy if you're not willing to move on 10 days.

Ms Churley: Are you just questioning that now? Come on, Gilles.

Mr Bradley: What did the Planning Act say before, before you changed it?

Mr Hardeman: This is what I was trying to point out in my previous remark. The area we're discussing today, and this amendment, previously there was no minimum amount required, so they could actually give the document on your way into the public meeting. We have decided that the document should be available prior to the public meeting, so we have put that at 20 days, that they must present the document, make it available, 20 days prior to a public meeting. So this is not reducing. This is an added benefit to help public participation, to help the public get the information they need to be prepared for the public meeting.

Mr Bisson: I recognize that, but conversely—

The Vice-Chair: Excuse me. Mr Conway was next in order.

Mr Conway: I think I should hold my tongue.

Mr Bisson: In fairness, Mr Parliamentary Assistant, the other extreme is also possible. The municipality could have let the plan out for comment 30, 40, 50, 90 days before going to the public meeting; that's a possibility. All I'm saying is, if you're not prepared to move that from 20 to 30 days, where the heck are you?

Mr Hardeman: Just for clarification, and as I've mentioned in a couple of previous statements, the 20 days is a minimum requirement. The municipalities can, as they could in the previous act, make it 90 days or 120 days.

Mr Bisson: Sure. That's the point.

Mr Hardeman: They cannot go below 20 days' notice. In the previous act they could go to two days' notice. The requirement is more onerous than Bill 163 was in this particular area.

Mr Bisson: It's obvious you're not going to support the motion, so let's get on with it.

Mr Conway: That's a useful clarification.

The Chair: Any further comment?

Mr Bradley: I know this government will break ranks here with the parliamentary assistant.

The Chair: Seeing no substantive further discussion, I'll put the question.

Ayes

Bisson, Bradley, Churley, Conway, Lalonde.

Nays

Baird, Carr, Fisher, Galt, Hardeman, Murdoch, Smith.

The Chair: I deem the amendment to fail. Any further amendments to section 9?

Mr Bradley: Yes, there's one on 17(17). It's essentially the same thing.

I move that subsection 17(17) of the Planning Act, as set out in section 9 of the bill, be amended by striking out "20 days" in the second line and substituting "30 days."

Essentially, I could make basically the same arguments on this one as on the other, that Bill 20 hampers the ability to participate in the planning process, that the public is the very key to this process by providing information and establishing legitimacy for decisions made by the public representatives. If we were to give the public the 30 days instead of the 20 days in this instance, I think there's less chance of there being a major confrontation at the end.

1800

Very often, people who are initially concerned about an action being taken that's essentially a change do so because they're not familiar with the ramifications. They're more asking questions than they are expressing opposition. It's my belief that by giving them 30 days it allows them 10 more days to gather their information together, or indeed to have their concerns alleviated by speaking to somebody and finding out that what they thought was going to happen as a result of the change is not really going to happen, and that's the purpose of moving it. I won't take up the time of the committee spending a longer time, because essentially the arguments are similar to arguments I just presented.

Mr Bisson: Just a question: This is with regard to the amount of time you have to be able to appeal the decision. Was there a maximum or a minimum time before, or is it the same as the other one?

Mr Hardeman: This amendment, I believe, refers to the notice of the public meeting, not to the notice of appeal.

Mr Bisson: "If the plan is exempt from approval, any person or public body may, not later than 20 days after the day that the giving of written notice under subsection (23) is completed, appeal all or part of the decision of council." That's what I thought we were at, 17(24).

Mr Bradley: No, 17(17).

Ms Churley: We're doing 17(17).

Mr Bisson: Oh, okay, sorry.

The Chair: Is there any further comment? Seeing none, I'll put the question. All those in favour of the amendment? All those contrary? I deem the amendment to fail.

Mr Bradley: There is a further one, to 17(24), which is similar to the last two motions I have moved.

I move that subsection 17(24) of the Planning Act, as set out in section 9 of the bill, be amended by striking out "20 days" in the third line and substituting "30 days."

The arguments are similar. It's a different circumstance in this case, but the arguments are similar in providing more time for the public to be able to carry out its responsibilities, to have its input. I happen to believe, in this case, that it would be useful. I recognize that the members have not supported it previously and I may be correct in assuming that support will not be there this time.

But in this case, as Mr Bisson has mentioned, "If the plan is exempt from approval, any person or public body may, not later than 20 days after the day that the giving of written notice under subsection (23) is completed, appeal all or parts of the decision of council to adopt all or part of the plan to the municipal board by filing with the clerk of the municipality a notice of appeal."

It's just providing some more time. Even more compelling than the other cases, I think this is a case where their concerns may be alleviated before they decide to have an appeal, but it's been the opinion of the government so far that is not the case. I guess there's just a difference of opinion there.

Mr Bisson: I ask the same question I did before. What was the notice provision before, the amount of time that you had to do the appeal?

Mr Hardeman: The previous Bill 163 was 30 days and it's being reduced from 30 to 20 days.

Mr Bisson: Well, okay, I'm going to go back into the argument again, but—

Ms Churley: Same argument.

Mr Bisson: No, the point is that what you argued before is that there was no minimum standard. Well, you ain't going to change your mind. Why even argue? Have your way.

Mr Bradley: Just very briefly, this is a bit different. That's why I sought the clarification from the parliamentary assistant previously, where I think what you've done with the 20 days in this 16 and 17 could be seen to be an improvement; not the kind of improvement we want, we'd prefer 30 days, but at least it was an improvement, as you say, so the person wasn't receiving a document going in the door.

In this case, you're moving in the opposite direction. There was a 30-day provision; you're reducing it to 20 days. In this case, I would hope that the government members would view it in a different light, in that you are actually taking away from the public something. In the previous two cases, to be fair to you, you were giving something to the public, giving at least a minimum. Mr Lalonde pointed out to me about half an hour ago that in fact this was something that was providing for a minimum. In this case, we are reducing from 30 to 20. I would simply make some of the comments I have before, that I think the process will be enhanced by 30 days and conflicts potentially could be reduced with 30 days instead of 20 days, but of course there may be others with differing views.

Mr Bisson: Prior to Bill 163, what was the notice provision for filing the appeal? Prior to Bill 163, was it 60 or 90 days?

Mr Hardeman: I think prior to Bill 163 there was no appeal process, no time line on that, because they were

all referred to the minister for the minister to refer to the OMB.

Mr Bisson: But am I correct in assuming it was fairly open?

Mr Hardeman: Yes.

Mr Bisson: Like, I could appeal 60 days, 90 days, 120 days, six months later?

Mr Hardeman: Prior to Bill 163, it was wide open up to the point that the minister approved it, which could be the first day it arrived at Queen's Park. I think there was some reference in one of the presentations that was handed to us that what had happened was that a particular amendment had arrived and come back out of Queen's Park in two days. In that case, the individual would have had no opportunity to appeal, because by the time their appeal would have arrived, it would have been done. In that case, I think this is an improvement over that.

Mr Bisson: Just so that we're clear here, I would also argue, though, that in some cases if somebody wanted to appeal the decision and file notice with the clerk, if it had not got to the minister within 60 or 90 days, they had the ability to approve. So you can also argue there's a lesser standard.

I take it what you're doing here in your zeal, in order to be able to show that you're cutting back time lines, is that this is one of the ways you're able to do it and show you're speeding up the process. But I don't think that's going to serve the public good.

The Chair: Any further comment? Seeing none, I'll put the question.

Ms Churley: Recorded vote.

Ayes

Bisson, Bradley, Churley, Conway, Lalonde.

Nays

Baird, Carr, Fisher, Galt, Hardeman, Murdoch, Smith.

The Chair: I deem the amendment to fail.

Any further amendments to section 9?

Mr Hardeman: I move that subsection 17(27) of the Planning Act, as set out in section 9 of the bill, be amended by striking out the portion that precedes clause (a) and substituting the following:

"Decision final

"(27) If no notice of appeal is filed under subsection (24) in respect of all or part of the decision of council and the time for filing appeals has expired."

Mr Bisson: Where is that motion? We don't have it in our package. Subsection 17(27), you just said?

The Chair: Section 9, subsection 17(27).

Mr Bisson: We have the government motion subsection 17(38)—

Mr Bradley: No, you have subsection 17(27) right now.

The Chair: That's correct. Do you have it there?

Mr Bradley: Do you want me to speak to it? No, I don't want to speak to it.

The Chair: No, I'm just seeking clarification if all the members have a copy of that.

Mr Bradley: I have subsection 17(27).

Mr Bisson: That's fine.

Ms Churley: I don't either.

Mr Bisson: I take it we're not going to win the argument.

Mr Bradley: Here, you can have mine.

The Chair: Mr Hardeman, would you care to explain this amendment.

1810

Mr Hardeman: There was some discussion during the public hearing process that if someone appealed an official plan, the whole plan would be in the appeal process and could be months in abeyance because there was a small section of the plan. Previously, in a referral, the minister could approve all but that which was appealed and then they could refer only that section that was objected to to the Ontario Municipal Board. This provides that same option, that the plan would be deemed to have been approved by council save and except that section that was appealed, and that would be the only part that would go to the Ontario Municipal Board. So the new act would be in place upon no one objecting to those portions and it would then only appeal the portion about which there was concern expressed.

The Chair: Any further comment?

Mr Bisson: How long are we going to? I do have another meeting to be at.

The Chair: You'll recall yesterday we had decided that we would add on the three hours that we lost this morning, but I'm at the direction of the committee whether we do it tonight or tomorrow, or part tonight and part tomorrow.

Mr Bisson: As I explained yesterday, I'm supposed to be at a meeting in about 15 minutes and I've got another one tomorrow.

Mr Conway: Why don't we split it? I've got to go to a funeral home in Shelburne at some point tonight. I don't plan to be here all night—7 o'clock? What's the normal adjournment? Are we dealing with 14 hours or 12 hours?

The Chair: We had night sittings for the previous bill this committee heard, so—

Mr Conway: One gets the impression that there's a certain quality of a foregone conclusion about this, so I don't think we ought to get hung up unduly about timing. I've got to leave at 6:30, but my colleagues Mr Bradley and Mr Lalonde will ably represent my interest, I know.

Mr Bisson: I'm not so sure. On that point, I would just like to point out that Mr Bradley votes differently than you.

The Chair: I'm at the direction of the committee.

Mr Bisson: I can't stay much longer, because I do have somewhere I've got to be. I say, as Mr Conway has, that I don't think it's going to make a whole bunch of difference how we feel about particular sections of the bill, so I don't know what I'm going to accomplish here for the next hour and a half.

Mr Hardeman: Mr Chairman, first of all on a point of order: I believe we have a motion on the floor that we should vote on before we have further debate.

Mr Bisson: Okay, sure. Let's vote on that and we can debate that after.

Mr Hardeman: But having already got into debate, I think the committee will recognize that we did have an

agreement that we would have a certain number of hours to debate the clause-by-clause. We are at your disposal as to where we put those hours. I can assure you that I don't feel like I'd like to work until midnight, but wherever they could be put in—

Mr Galt: Put the question and then debate it.

Mr Hardeman: We do hope to have the clause-by-clause completed by tomorrow.

Mr Bisson: Put the question.

The Chair: We'll put the question then. All those in favour of the motion? Contrary? I deem that amendment to carry.

Ms Churley: I'm on heavy allergy medication, so you may have noticed I'm starting to slow down here a bit.

Mr Bradley: I hadn't noticed.

Ms Churley: You hadn't noticed at all, eh? Well, this is me slowing down.

Mr Conway: Nothing that a trip to Harvey's won't cure.

Ms Churley: Yes, I was going to invite you all out to dinner after, to Harvey's, no doubt, but the placards will have to be taken by all.

I regret I don't know about this agreement. Obviously, my party didn't communicate to me.

Interjection: They never tell you anything.

Ms Churley: Yes, they never tell me anything. I would prefer—I realize we have a certain amount of hours—to stop at 7 tonight. I'm willing to put in whatever hours are necessary tomorrow to do this, but my colleague has to leave and I don't think I'm going to be able to carry on much after 7 o'clock this evening.

The Chair: Is it the consensus of the committee that we rise at 7 o'clock? Anyone care to make that a motion? *Interjection.*

The Chair: As Ms Churley just said, when we finish.

Mr Murdoch: I vote we go all night tonight then.

Ms Churley: You can vote on it.

Mr Baird: There are members of the committee—I know Mr Bisson brought this up the other night—who don't live in Metropolitan Toronto and who have to go back to our constituencies tomorrow.

Mr Bisson: We have no problem, because at 6 o'clock tomorrow, come hell or high water, you're done.

The Chair: With that undertaking, does someone care to make a motion that we rise at 7 o'clock?

Ms Churley: I so move.

The Chair: Ms Churley has moved that the committee rise at 7 o'clock. All in favour? Contrary, if any? Carried. Are there any other amendments to section 9?

Mr Bradley: Apparently, there is another one here.

I move that subsection 17(36) of the Planning Act, as set out in section 9 of the bill, be amended by striking out "20 days" in the second line and substituting "30 days."

I do that for the same basic reasons as I did previously. I should read the section so people will know what it says:

"Any person or public body may, not later than 20 days after the day that the giving of written notice under subsection (35) is completed, appeal all or part of the decision of the approval authority to the municipal board by filing a notice of appeal with the approval authority."

It seems to be similar to what I just did, but I think the arguments are basically the same and I'll forgo the repeating of the arguments. For the same reasons, I believe there should be 30 days rather than 20 days.

The Chair: Any further comments? Seeing none, I put the question. All those in favour of the amendment? Contrary? I deem the amendment to fail.

Are there any further amendments to section 9?

Mr Hardeman: I move that subsection 17(38) of the Planning Act, as set out in section 9 of the bill, be amended by striking out the portion that precedes clause (a) and substituting the following:

"Decision final

"(38) If no notice of appeal is filed under subsection (36) in respect of all or part of the decision of the approval authority and the time for filing appeals has expired."

For the information of committee, it is an identical motion to the previous one in a different section of the act.

The Chair: Is there any further comment? All those in favour of the amendment? Contrary? I deem that amendment to carry.

Any further amendments to section 9? I think there's another one from you, Mr Hardeman.

Mr Hardeman: I move that subsection 17(39) of the Planning Act, as set out in section 9 of the bill, be amended by striking out the portion that precedes clause (a) and substituting the following:

"Withdrawal of appeals

"(3) If all appeals made under subsection (36) in respect of all or part of the decision of the approval authority are withdrawn and if the time for filing notice of appeal has expired, the secretary of the municipal board shall notify the approval authority that made the decision and."

The Chair: Do you wish to elaborate?

Mr Hardeman: Again, it's a clarification to deal with exactly the same as the previous two motions, allowing the municipal board to deal appropriately with the question of appeal.

The Chair: Is there any further discussion? All those in favour of the amendment? Contrary? I deem the amendment to pass.

Any further amendments to section 9?

Mr Bradley: The next one is a Liberal amendment.

I move that subsection 17(40) of the Planning Act, as set out in section 9 of the bill, be amended by striking out "90"0 and substituting "120."

I know that Mr Murdoch's very supportive of this, I believe.

Ms Churley: He's howling like a dog over there.

Mr Lalonde: I was talking to the planner in our district again today and yesterday. The planner of the city of London has expressed his concern about reducing it down to 90 days, and if you take a municipality like London that cannot meet the requirements of 90 days, I wonder what's going to happen with the rest of the municipalities in small rural and urban areas. This is why we agree to cutting down the time, but to 90 days, the people just don't have the resources to do the research and also to put everything out to the public. So we would highly recommend 120 days.

1820

Mr Bradley: The other reason I think there's a compelling reason to do this—and frankly I would have preferred it to be longer, but your goal is to bring down the number of days and I'm trying to recognize that in the amendment that is made, that your goal is to do that. As I say, you want 90 and a lot of people think it should be much more than 120, but 120 is what I've chosen.

One of the new arguments, I think, that's fair is that everybody is cutting staff now. I won't get into the argument of whether they should be or not; I'm just going to state the fact that the province is cutting staff, local municipalities are cutting staff, conservation authorities are cutting staff, the Niagara Escarpment Commission is cutting staff.

Mr Murdoch: Oh, really.

Mr Bradley: I know that will break the heart of the member for Grey-Owen Sound. And because they're doing it, it's more difficult, in my belief, to have a good scrutiny of a proposal. I understand wanting to reduce the number of days, and if you had the same number of staff and you said, "Well, we want to reduce it," again, it's a little less of a problem. But I think we're seeing some significant reductions in staff, and I don't think it's fair to the municipalities to reduce it to 90 days. I just don't know how they're going to be able to do it with the reduction in staff and still do a good job.

Again, if they do a good job in the first place, you don't have the problems later on, in my view, and so much of what we try to do today—we're in a society that wants things done more quickly—the ramifications down the line, both financial and otherwise, are really greater than a lot of people anticipate. That is why I've suggested 120, which is another month—it's 30 days more—because I think, as Monsieur Lalonde has said, we have certainly heard that from some people who are in a position of authority to tell us, that it is somewhat unrealistic to suggest 90 days.

Mr Conway: This is perhaps an opportunity for me to make just a point, because I think my friend Bradley has made a good argument, and this may be more a question for someone like the parliamentary assistant. Somebody, and I can't remember who it was, yesterday, I think, in London, cited a good example. I remember I spoke to it, about just a mistake, a mistake that I just thought was stupid and transparent, and not for the first time, I might add.

One of the questions that I have, and I insert it here: Have we got any reason to believe that particularly some of these specialists, these consultants and these planners, are going to accept some responsibility? When I think of some of the messes that I've seen—and there's a risk now, with speeding up things and fewer people around for oversight purposes, that we might just get a few more of these—one of the most interesting things I always found was trying to get somebody to accept some responsibility: trying to get the architect, trying to get the planner, trying to get the consultant, to actually agree, having received hundreds of thousands of bucks, or more, that maybe, just maybe, they were responsible and those poor folks standing around the front steps of Richie's store in Mount Elgin, Oxford county, weren't going to

get screwed to the wall again for a great big fat bill that was not of their making. Have you got any reason to believe, Parliamentary Assistant, that in this happy new world, we are going to be able to pin the tag of responsibility to some of these people?

Mr Bradley: Pin the tail on the donkey.

Mr Bradley: Pin the tail on the donkey, as my friend Bradley says?

Mr Hardeman: In fairness, in order to answer that question, I would first of all have to agree that your analysis of what they're presently doing was appropriate.

Mr Conway: And you think I'm completely unfair, do you? Well, maybe I am, but we've just got another project in my own community, and I think of some of the—you see, some of these smaller municipalities have been really tagged with some big bills that we've generally helped with. But I'm assuming that in this new world order, there will not be that backup. So as you speed this process along, if I live in Oxford or Rockland or St Catharines, I just hope there's somebody out there protecting—because I'm a taxpayer and I'm not prepared to be held liable for some of these decisions that could prove to be very costly.

Mr Hardeman: I think those comments as they relate to this amendment do apply. The amendment is to extend the time before the applicant can appeal directly to the Ontario Municipal Board for the approving authority not making a decision.

In the cases where some of these programs or some of these applications go on and on through more studies—and I think one of the deputations did make that statement, that the planning profession in a lot of cases did not have a great interest in seeing it come to a conclusion—if the applicant deemed that the municipality was not proceeding along as it should be, in fairness, as the process should be, that it was delaying it for one reason or another, at the 90 days they could appeal it directly. The concern is expressed that that is not sufficient time to make that decision.

I dare say that the government does not believe there are many developers or applicants in any planning process that—when they reach the 90 days and they felt the municipality was still 90 days short of reaching a decision but they were going to reach a decision, they would not proceed to the Ontario Municipal Board, because that would not shorten the process. The only shortening here is when there is an application going through the process that someone is not prepared to make a decision on.

Mr Conway: Bradley reminds me of my point in his argument for his amendment, and again, I'm trying to understand the culture that's going to develop around your very laudable objectives here. I just think about some of municipalities and what has really angered them over the last number of years, left them with big bills. It's often around waste management facilities, to be fair here, where it took forever for a variety of reasons. One of the reasons was the provincial government was probably too generous with its granting policies. I can think of one program my friend the member for St Catharines initiated that was probably in that category.

Mr Bradley: That kind of funding was demanded by the Conservative opposition.

Mr Conway: Well, perhaps, but it became a barbecue for consultants, and the difficulty was—

Mr Murdoch: Where are they now?

Mr Conway: Because we are in a new fiscal reality. I hope we all understand that here. So as we try to speed things along, I think anybody who reads this bill will understand there is a very real pro-development bias in this policy and in this legislation. Sure. I think any objective—

Ms Churley: Oh, absolutely. Did you just notice that?

Interjection: You didn't hear him in the hearings.

Mr Conway: At one level, I don't have a problem with that, if local politicians and developers are prepared to be responsible, and to the extent they are irresponsible, that people who made mistakes will pay the bills. Because I'm a shareholder in this corporation. I'm telling you, as my member, I'm not paying. If Ernie Hardeman has been retained as a consultant and he's screwed up—I mean, I've sat there as a minister of the crown and I've looked at people and they've said to me, "You know, we took, on professional advice, the following actions that have now proven to be just completely unfounded, and here's the bill."

Mr Murdoch: I got a consultant over here. Remember him?

Mr Conway: And there are lots of good consultants around, and I'm not here to disparage consultants in general. But what I'm concerned about in these time lines is that this process becomes a lot more easy to accept if I know people who in the past have not always shown a willingness to accept their responsibility for mistakes made.

Mr Bruce Smith (Middlesex): Mr Hardeman, perhaps you can refresh my memory. We're obviously moving this from 150 days down to the 90. Could you refresh my memory as to how we arrived at the 120 days?

Mr Hardeman: I could refresh it, and it happened just recently. That's where the Liberal amendment wants to change our 90 that is presently in the bill to 120.

1830

Mr Smith: But currently is it not at 150?

Mr Hardeman: I believe it's currently at 180, and I think Mr Bradley mentioned earlier that there was not a magic in the number 120, that it was, in his opinion, a compromise between what it used to be and what we presently propose in the bill.

Mr Conway: And we pointed out it was the city of London that mentioned that yesterday. Somebody from London I think said that they felt there was a problem. If you hear that from London, what are people from Hunky-Doodle Corners going to think?

Mr Lalonde: Yes, definitely. If we refer to one of the groups that appeared in front of us yesterday in London, I even said to the gentlemen, "I thought you were trying to make a sales pitch at the beginning." Those consultants will be laughing at this at the present time, but to tell you the truth, I don't think municipalities are laughing at it, because it's going to incur them additional cost. They will have to change their local bylaw that states that anybody who applies for zoning for a new subdivision,

there's a cost within their bylaw at the present time, but this will have to be changed, because really, to hire a consultant, it's not that easy. And when you say consultant, you are saying at the present time that the time frame is very, very short for them to do an in-depth study before it is presented to municipal council.

This guy from London yesterday, he said it: They had to let 12 people go. Probably at this time of the year, it's very quiet. There's absolutely nothing going on in the Ottawa area. The municipalities like Nepean and the others might have the planners in place, but if construction starts again—according to this, it's supposed to stimulate construction—then it's going to be a real headache for all municipalities.

So I would ask the committee to consider this very seriously about that 120 days instead of 90 days.

Mr Hardeman: I think, just in clarification again, the 90 days as it is in the act is not a deadline that must be met and if it's not met then automatically the application would go to a direct appeal. The 90 days, or the number of days we're referring to in this section, provides the opportunity for the applicant, if he decides that no decision will be made or in fact that the process is being unduly held up, to make a decision on the 91st day that he thinks he would be better served by going directly to the Ontario Municipal Board, recognizing that if he went to the Ontario Municipal Board with such an application, he would have to then produce and provide the same type of documentation in order to have a hearing before the board. He would also as a developer run the risk of having the Ontario Municipal Board suggest that because he did not wait for the decision at the local municipality, he should go back and see what they have to say about it. So we don't see this as a tool that developers will be using to get it to the board quicker. It will be a time line that will help along with those decisions that are not being made.

Mr Lalonde: I know a few who would only wait one day. They'll go directly. They won't wait. We've had to deal with some of those people in the past in our region. In the Cumberland area, the Orléans area, I'm telling you, the developer over there won't wait an extra five days. They're going to go straight ahead to appeal, because the lawyers are laughing at it too.

Mr Bradley: Would it be in order to move a motion that the vote on this take place at the beginning of the session tomorrow? I don't deny that the parliamentary assistant is very familiar with what's going on. I commend him on his knowledge of the bill. Just he might be able to check with the minister whether the government might be prepared to entertain this. I don't want to do this with a lot of them, but if we could have a vote tomorrow on that, regardless of what it is, the vote, I accept the vote as it is tomorrow. But if we could, we might have a little consultation. I think some of the government members may also have some little bit of sympathy with this. Is that motion in order, sir?

The Chair: I can ask if there's unanimous consent that we postpone the vote on this section until tomorrow morning, this amendment?

Mr Bradley: Okay, tomorrow morning first thing?

The Chair: Seeing unanimous consent, we'll move on to the—

Ms Churley: Great.

Mr Hardeman: Mr Chairman, I do accept the unanimous consent. I just want to point out, not with the intention of saying that tomorrow the vote would be different.

Ms Churley: Oh, absolutely.

Mr Bradley: All I'm asking is that there be a consultation with the minister, and if that consultation produces the same result as you have today, that's fine.

Mr Hardeman: We never want anyone operating under false pretences.

Mr Bradley: No, and I appreciate that very much.

The Chair: Are there any further amendments to section 9?

Mr Bradley: There is a further amendment. It is section 9 of the bill.

I move that clause 17(45)(a) of the Planning Act, as set out in section 9 of the bill, be amended by striking out "or" at the end of subclause (ii), adding "or" at the end of subclause (iii) and adding the following subclause:

"(iv) the plan or part of the plan that is the subject of the appeal is premature because the necessary public water, sewage or road services are not available to service the land covered by the plan and the services will not be available within a reasonable time;"

If I may speak to that, the motion re-establishes what we call the prematurity test, the power of the OMB to dismiss matters regarding official plans on the basis of prematurity because the necessary public water, sewer and road services of the proposed development are not available or will not be available within a reasonable time. Municipalities should not have to bear the costs of an OMB hearing where there is clear information that there is no servicing capacity nor an anticipation of when future capacity will be available. Approval without the assurance of servicing gives a developer and prospective purchaser false expectations. It can put pressure on municipalities to finance new development without the benefit of good, comprehensive planning. This motion is in line with your government's stated mission of giving municipalities more local autonomy.

The explanation that I've given I think is quite concise. I think it makes a lot of sense to do this. The parliamentary assistant may have a rationale that he wishes to share with us on why this would not be included. I'm just concerned when there aren't the water services, there aren't the sewer services, there aren't the road services, that we're getting things approved. There is that undue expectation, and then in comes the developer, putting a lot of pressure on, and the municipality may say, "Well, we've got a lot of pressure on this; I guess we should put our services in there," instead of looking at other places to put services where it may make more sense.

I think this used to be in, did it not? It used to be in at one time, and I think it was a valuable tool to have in the Planning Act.

The Chair: Ms Churley.

Ms Churley: Oh. Thank you. You may have noticed that the NDP had in fact a—not similar but the same amendment. Perhaps it would be useful to hear the

rationale behind this, because I don't understand it except I'm quite suspicious and feel that it's a part of this bill to speed up development and will contribute to urban sprawl.

But the interesting thing here is that the good news is that the public does have a remedy here, and in the past I know the OMB has ruled against applications on the basis of prematurity. Once again, your goal of having clear, concise, up front planning is not going to work here, because I expect that this will be brought before the OMB to be resolved in one way or the other here. That's what's going to happen, so once again it's a shortsighted plan to try to speed up the process and to cut red tape but in fact it's probably going to have the opposite effect. So that's one negative.

The other is that I agree with Mr Bradley that it's happened in the past and it will happen again where municipalities will be under a lot of pressure to end up financing development that hadn't been planned properly in the first place.

Again I would say it's common sense that you need to have this kind of testing and this kind of information before you. Municipalities should have it before making these kinds of decisions. We're talking multimillions of dollars down the road.

1840

I come back again to—we haven't dealt with it yet—the Development Charges Act and that there are going to be changes made there. I expect, once those changes are made and the developers only have to cover the so-called hard services, that there are going to be more pressures already upon municipalities and the taxpayers to finance portions of development, some of which should be, in my view, paid for by developers. I think this is quite regressive and, if you don't mind, I would like to hear the rationale behind this.

Mr Conway: Just a couple of observations. I don't profess to have any of the experience that others have and I was interested in the number of presenters who spoke to this prematurity test, which struck me as quite interesting. I'm now thinking about it from the point of view of the Ontario government—pardon me for being a bit reflective here—I'm thinking about the poor old Minister of Education; he's not here and he probably should be here for this discussion. I'm expecting that his pal Ernie is not doing something here that's really going to set that poor agent of Her Majesty's Ontario government up for a really tough, miserable time.

"If you build it, they will come." If we put a subdivision someplace, particularly an expensive one—I've gone in and I've always been struck by the fact and became a lot more struck by it after I became the Minister of Education—you walk in, you see one of these elaborate subdivision plans and there's always, in the middle of it, a lovely school. It may be that the new capital plan for education is covered by the development charges, but I doubt it. It seems to me, I say to the parliamentary assistant, that as you comment I hope you're not doing something here, by eliminating the prematurity test, that's going to expose other parts of your own government to pressures that are going to be (a) irresistible and (b) expensive.

Let me use another example. My friend the member for Nepean is here. The wonderful Corel centre, formerly known as the Palladium, sits out in that marvellous wheat field in west Carleton.

Mr Murdoch: It's a corn field.

Mr Conway: Whatever, a corn field. I guess I said corn field the other day. There it sits. It's now there, a multimillion-dollar facility with a very significant corporate enterprise at its core, namely, the national hockey league franchise. It sits there quite lonely in that field, and we put in some money, didn't we, Marilyn? We put in \$5 million or something.

Ms Churley: I don't want to talk about it.

Mr Conway: I think we put \$5 million, provincially, into the servicing.

Mr Baird: They charged them \$35 million.

Mr Conway: Whatever. My point is that it's out there now, and I suspect that is going to create some very real pressures, not just on local government but on the provincial government. What I want to know is, just speaking now from the provincial government's point of view, if you eliminate the prematurity test, can you give a reasonable assurance to others of your colleagues who are not here that you're not setting them up for some pressures and some expenses that are just not fair for them to have to cope with?

Mr Murdoch: Do you want development or not?

Mr Conway: I have no hesitation with development, but my friend Bradley has given me a copy of—

Mr Murdoch: Hey, he's not your friend.

The Chair: Mr Murdoch, order.

Mr Conway: My friend Bradley's given me this marvellous paper from Professor Kushner at Brock University, the title of which is the Effect of Urban Growth on Municipal Taxes. Professor Kushner makes—

Mr Bradley: A Progressive Conservative.

Mr Conway: "Conservative" understates it. Joe, are you listening? I think we all want development. We want good development, and I think we want development that pays for itself. The new world order is that there will not be the traditional subventions from government to front-end a lot of this or retrofit it. That, I think, is the operating assumption. So I want my friend the parliamentary secretary to give me his views as to whether or not dropping the prematurity test here in any way exposes other agencies of his own government to significant costs they might not otherwise seek or want to pay for.

Mr Hardeman: There are a couple of items that I think need clarification, Mr Chairman. The prematurity test would not apply to all required services such as schools, as was mentioned by Mr Conway. It's related, and particularly this amendment, to sewer and water serviceability. Removing the prematurity is only removing it as a basis for the Ontario Municipal Board refusing to hear an application. Municipalities will still, in all instances, be able to use a prematurity test as they make a decision on an application.

The proponent of the development will then, if they so wish, appeal that decision to the Ontario Municipal Board. The Ontario Municipal Board, under Bill 20, would have to hear it if the only reason for not hearing it would be the prematurity. The government believes that

it's appropriate that infrastructure is part of the planning process. The municipality plans their development based on the ability to serve, and the approvals process should include that as one of the criteria used in judging applications. The Ontario Municipal Board should use that in judging the application, not in refusing to hear the application on that development.

Mr Conway: I appreciate that. What I hear you saying is that the prematurity test is dropped now as a sole ground for the Ontario Municipal Board to reject an appeal. Again, I don't understand these processes. I know it's only related to hard services. My limited experience in this area, that my friend the member for Grey knows much better than I, is that whether they're hard or soft costs, it's a real game of trying to transfer the costs. I don't blame any developer for trying to say, "If I can transfer that cost to the local government, or if I'm the developer and I can get together with the local government and really pass some costs we both know are going to be triggered by this, if we can together agree to slip that cost over to our pals down at Queen's Park, hey, that's a great deal." All I want is some assurance, and granted, we're only dealing with hard services, but you'd better not be setting me up for some bills that are going to land on my desk.

Mr Galt: Something that lawyers guarantee.

Mr Conway: No, I'm not looking for that. I think you know what I'm saying here.

Mr Hardeman: Bill 20's removal of the prematurity only has the effect of taking away the right of the OMB to refuse to hear an application based on it being premature.

Mr Conway: In some of the evidence that I heard—I can't cite it for you—we had some municipal people and we had some non-municipal people come forward, and their concern was that if you took that away, you would create a situation where development, by which I thought they meant residential development, would start to occur in areas they weren't ready to provide for. If any of that testimony is right, speaking out just as a provincial government, if the Education Act, for example, continues to mandate that we have to provide buses and pay for them, then by making that decision, you're starting to trigger additional bills to me, as a provincial politician, that I have to pay. I just want to be saved, harmless, from bills that I'm not paying. If Murdoch has a good plan, I expect that Murdoch's figured out how he's going to pay for it, but he'd better not be shipping the bills to me, because I'm not paying.

Mr Murdoch: It's all in my subdivision agreement.

Mr Bradley: It comes down to that yes, it could be a subdivision agreement, but there can be a provincial road going into that subdivision or past that subdivision that has to be either improved or constructed, going to it. That's one implication for the provincial government. Education has been mentioned, and within a municipality I saw those educational pressures building, and all of this flows out of it. It may not be the water, sewer and local roads themselves; it's what flows out of this that presents provincial implications. It also presents some challenges to the local municipality which I think are difficult.

I get back to the point that it really prevents the municipality from dealing with what it wants to, where there are services or services are anticipated, and they start dealing with something where there either are not services now or it's not anticipated that there are going to be services. I think it's going to skew the planning process at the local level and it does have implications for the provincial government, including the Ministry of Environment and Energy, that still provides funds for sewer and water projects through what's now called the Ontario Clean Water Agency.

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The Chair: Any further comments? Seeing none, I'll put the question.

Ms Churley: Recorded vote, please.

Ayes

Bradley, Churley, Conway, Lalonde.

Nays

Baird, Carr, Galt, Hardeman, Murdoch, Smith.

The Chair: I deem that amendment to fail. I would note that an identical motion was received from the NDP, with the exception of the typo—" (iii) " should read " (iv) "—so having voted on it once, that motion is not in order.

Ms Churley: We might get a different result.

The Chair: Are there any further amendments to section 9?

Mr Conway: Just on the general section, may I make this comment? I don't know that I got any kind of a response. I'm interested in the comments here. I just assume that you people feel comfortable that in doing this kind of thing you're not setting yourselves up, as a provincial government, for the very costs that you're seeking relief from.

I say to my friend the member for Nepean, to come back to the example, I'd like to hear from the regional municipality of Ottawa-Carleton or the regional ministry office of the department of highways. I personally have been struck by the traffic developments in the west part of the region because of the new arena. I've been stunned by just what kinds of volumes we're now getting when 20,000 people discharge from that beautiful new facility. My guess is that the pressures have already started on some of the local politicians, and I suspect on the provincial politicians, to do something about that.

The Chair: Mr Hardeman.

Mr Hardeman: I move that subsection 17(47) of the Planning Act, as set out in section 9 of the bill, be amended by striking out the portion that precedes clause (a) and substituting the following:

"Dismissal

"(47) If the municipal board dismisses all appeals made under subsections (24) or (36) in respect of all or part of a decision without holding a hearing and if the time for filing notices of appeal has expired, the secretary of the municipal board shall notify the clerk of the municipality or the approval authority; and"

This is an amendment to clarify that the notice applies only in cases where the board does not hold a hearing,

that it was dismissed on grounds other than prematurity, but if the application is dismissed and the decision of the original authority becomes final, the board does not have to send out notices.

Ms Churley: What's the change here? I'm just reading the original draft bill. What is it you're amending specifically?

Mr Hardeman: This amendment clarifies that this section applies only where the board dismisses an appeal without holding a hearing. This will avoid the potential for misinterpretation that after a hearing where the OMB dismisses the appeal, the OMB needs to return the matter to the approval authority for a decision.

Ms Churley: Okay.

The Chair: Any further comments? All those in favour of the amendment? Contrary? I deem that amendment to carry.

Any further amendments to section 9?

Mr Hardeman: I move that subsection 17(48) of the Planning Act, as set out in section 9 of the bill, be amended by striking out "dismisses an appeal under subsection (40) and" in the first and second lines and substituting "dismisses an appeal under subsection (40) without holding a hearing and if."

This amendment is required to clarify subsection 17(48). It applies only where the Ontario Municipal Board dismisses an appeal of an official plan matter on which the approval authority has not made a decision without holding a hearing. If the Ontario Municipal Board holds a hearing and makes a decision on the matter, the OMB's decision is final. This matter does not return to the approval authority for a decision. This is the direct appeal to the Ontario Municipal Board.

The Chair: Any comment? Seeing none, all those in favour of the amendment? Contrary? I deem that amendment to carry.

Any further amendments to section 9? Mr Bradley.

Mr Bradley: Section 9? No, that's it as far as my notes show.

The Chair: Thank you. Seeing that it's 7 o'clock, this committee stands adjourned.

Interjection: The whole thing?

The Chair: No. Because we postponed the vote on one of the subsections, we have to postpone the vote on the entire section till tomorrow morning.

This committee stands adjourned until 9 o'clock tomorrow morning in this room.

The committee adjourned at 1857.

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STANDING COMMITTEE ON RESOURCES DEVELOPMENT

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Vice-Chair / Vice-Président: Fisher, Barbara (Bruce PC)

*Baird, John R. (Nepean PC)

Carroll, Jack (Chatham-Kent PC)

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Maves, Bart (Niagara Falls PC)

*Murdoch, Bill (Grey-Owen Sound PC)

Ouellette, Jerry J. (Oshawa PC)

Tascona, Joseph (Simcoe Centre / -Centre PC)

**In attendance / présents*

Substitutions present / Membres remplaçants présents:

Bisson, Gilles (Cochrane South / -Sud ND) for Mr Christopherson

Bradley, James (St Catharines L) for Mr Duncan

Carr, Gary (Oakville South / -Sud PC) for Mr Maves

Conway, Sean (Renfrew North / -Nord L) for Mr Hoy

Galt, Doug (Northumberland PC) for Mr Tascona

Hardeman, Ernie (Oxford PC) for Mr Carroll

Smith, Bruce (Middlesex PC) for Mr Chudleigh

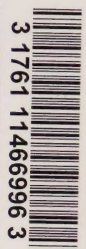
Also taking part / Autres participants et participantes:

Elaine Ross, legal services branch—municipal affairs, Ministry of the Attorney General

Robert Dowler, manager, planning and building policy section, housing development and buildings branch,
Ministry of Housing

Clerk / Greffier: Douglas Arnott

Staff / Personnel: Laura Hopkins, legislative counsel



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